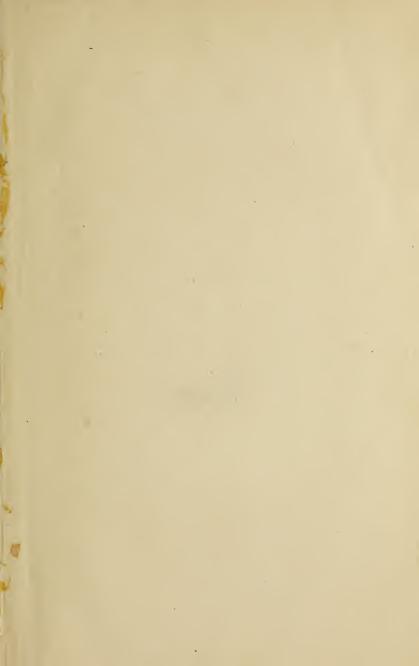
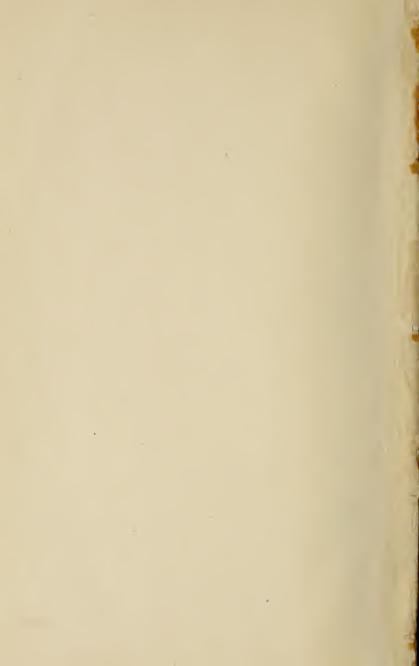




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CASE OF VENEZUELA.

BRIEF

CONCERNING THE QUESTION OF BOUNDARY BETWEEN VENEZUELA AND BRITISH GUIANA.

BY
WILLIAM L. SCRUGGS

OF COUNSEL.

SUBMITTED TO THE TRIBUNAL OF ARBITRATORS CONSTITUTED IN CONFORMITY WITH

THE TREATY OF FEBRUARY 2, 1897.

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INTRODUCTION.

On the 2d of February, Treaty of tration.

Arbi1897, the Plenipotentiaries of the Republic of Venezuela and of the United Kingdom of Great Britain entered into a Treaty "for an amicable settlement" of the long standing dispute "concerning the boundary between" that Republic "and the colony of British Guiana"; and, to that end, "resolved to submit to arbitration" the whole question involved.

This Treaty, a full text of which will be found in the Appendix, was duly ratified by both Governments, and the ratifications were exchanged in the city of Washington, June 14, 1897. It contains, besides the preamble, fourteen articles, the first two of which relate to the appointment and organization of the arbitral Tribunal, and to the manner of filling possible vacancies therein.

The third article provides that the Tribunal "shall investigate and ascertain the "extent of the territories belonging to, or "that might lawfully be claimed by the "Kingdom of Spain or the United Neth-"erlands" (through which the disputants respectively claim title) "at the time of "the acquisition by Great Britain of the "colony of British Guiana"; and that it shall "determine the boundary line be-

Art. III.

¹ See Preamble to the Treaty, App. p.

"tween the Republic of Venezuela and the colony of British Guiana."

The fourth article stipulates that, "in "deciding the matters submitted, the arbi"trators shall ascertain all the facts which "they deem necessary to a decision of the "controversy"; and that in the investigation and decision, they "shall be governed by "certain fixed "rules which are agreed upon by the High Contracting Parties as "Rules to be taken as applicable to the "case; and" also "by such principles of "International law, not inconsistent "therewith, as the arbitrators shall deter"mine to be applicable to the case."

The Rules thus agreed upon are as follows:

Rules "(a) Adverse holding or pre-Agreed Upon. "scription during a period of

"fifty years shall make a good "title. The arbitrators may deem exclusive polit"ical control of a district, as well as actual settle"ment thereof, sufficient to constitute adverse hold-

"ing or to make title by prescription."

"(b) The arbitrators may recognize and give "effect to rights and claims resting on any other "ground whatever valid according to International "Law, and on any principles of International Law "which the arbitrators may deem to be applicable "to the case and which are not in contravention of "the foregoing rule."

"(c) In determining the boundary line, if ter"ritory of one party be found by the Tribunal to
"have been at the date of this Treaty in the occupa"tion of the citizens or subjects of the other party,
"such effect shall be given to such occupation as
"reason, justice, the principles of International Law
"and the equities of the case shall, in the opinion
"of the Tribunal require."

Articles five, six, seven, and eight of the Treaty fix the time and place for the Art. IV.

Art. IV.

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Arts. V. to VIII.

meeting of the abitrators; make provisions for the determination by them of "all questions" incident to the case, including the final decision, "by a majority of all the arbitrators"; obligate each of the High Contracting Parties to appoint "one person as its Agent to attend the Tri-"bunal and to represent it generally in all matters connected with the Tribunal"; they prescribe the time and manner in which the Case and counter-Case of each of the parties shall be made out and submitted; and provide for argument by Counsel—oral or in writing, or both—before the Tribunal as a collective body.

Arts. VIII. to XIV.

The remaining articles — from eight to fourteen inclusive—prescribe the time and manner in which the final decision of the Arbitrators shall be rendered; make provision for the payment of the Agent, Counsel, and Arbitrators named by each of the High Contracting Parties, and for other expenses incident to the arbitration; impose upon the Arbitrators the duty of keeping a record of their proceedings, and obligate each of the disputants "to consider the result of the "proceedings of the Tribunal of arbitra-"tion as a full, perfect, and final settlement "of all the questions referred."

The dispute thus referred to friendly arbibitration originated early in the present century. Venezuela, as a colony of Spain, declared its independence in 1811; and in 1819 (having in the meantime maintained its independence) united with New Granada and Ecuador

(two other revolted Spanish-American colonies) in the formation of the first Colombian Federal Union, which was formally recognized as an independent nation by the United States in 1822. and soon thereafter by the other powers. In 1830 the Colombian Union was dissolved by mutual consent, when Venezuela resumed its independent position as a separate Republic, which was in due course formally recognized in that character, first by the United States, and subsequently by the other powers. Spain, however, withheld formal recognition till 1845, when by treaty of that date she, quite superfluously, "ceded" to the Republic the thirteen provinces (each by name, Guayana being one of them), which had constituted the old Spanish Captaincy-General of Venezuela in 1810.

By the treaty of London, August 13, 1814, the States-General of Holland ceded to England, for a monetary consideration that part of Dutch Guayana described in the treaty as "the establishments of Dem-"erara, Berbice and Essequibo." The location of the divisional line between these three Dutch "establishments" and Spanish (now Venezuelan) Guayana, as it existed and was recognized in 1814, now constitutes the gist of the boundary dispute between Venezuela and British Guiana.

This dispute arose as early as 1822, when Venezuela was yet a constituent member of the old Colombian Union; but it never attained to much prominence till after the *ex-parte* survey by Schomburgk in 1840–1.

Official Hist. Boundary Dispute, pp. 33-38. Ib. Id.

Various efforts to establish a conventional boundary line failed, and in 1850 each party obligated itself to the other not to occupy or attempt to occupy any portion of the territory in dispute so long as the question of boundary should remain unsettled.

Subsequently each party accused the other of violating this truce by attempting to exercise jurisdiction over portions of the disputed territory; and this phase of the controversy finally led to the diplomatic rupture in 1887.

This called forth, first, a formal tender of good offices, and subsequently the friendly intervention, by the United States. As a result of that intervention, in 1895, a Commission composed of five eminent jurists and publicists (citizens of the United States) were appointed by the Executive, with the concurrence of Congress, "to investigate "and report upon the true divisional line "between the Republic of Venezuela and "British Guiana."

This Commission entered upon the discharge of their duties in January, 1896; but, in February, 1897, before their report had been formulated and submitted, the present Treaty of arbitration was agreed upon. The Commission, then suspended their work, or, rather, withheld their decision, but continued in existence long enough to classify and print the evidence they had collected.

That evidence is herewith submitted in nine printed volumes, entitled "U.S. Com-"mission on Boundary between Venezuela and British Guiana, Washington, 1896-

Act Cong. Approved Dec. 21, 1895.

97," and will be cited in this paper, by volume and page, as "Docs. Wash'n Comm." The other evidence and documents herewith submitted, or authorities referred to, will be readily identified by the marginal notes and citations in each particular case.

PART I.

THE TERRITORIES IN DISPUTE.

Under the general name of Guayana or Guiana is included that vast region on the northeastern part of the South American continent, bounded south by the Amazon, north and northwest by the Orinoco, east and northeast by the Atlantic ocean, and west by the continuous water-way formed by the great bend of the Orinoco, the Casiquiere Channel, and the Rio Negro.¹

Myers' Geog., Vol. II., Ed. 1822.

Being thus entirely surrounded by water, Guayana may be compared to a vast island stretching from about 8° 20' of north, to Although within the 3° south latitude. tropics, such is its peculiar topographical conformation that it presents great diversities of climate and soil, and is capable of producing almost every species fruit and flower and cereal common to the three zones of the earth. Its interior auriferous districts, although as yet but imperfectly developed, are known to be very valuable; while its geographical position, fine harbors, and network of navigable rivers and caños make it a region of great future commercial possibilities.

Towards the close of the fifteenth, and early in the sixteenth century, this region of country first became known to Europeans through its discovery by the Span-

Infra, Part II., pp. 30-32 et seq.

¹ See Atlas, Vol. IV., Docs. Wash'n Com.

iards. They were the first to sail along its coasts; the first to ascend and explore its great rivers; the first to penetrate the interior; the first to bring back reports of its wealth of gold; the first to introduce Christian civilization there; and the first to establish European settlements there. All that other nations did or attempted was to follow them.

Thus it was that Guayana had been a Spanish possession nearly a century before the Raleigh expeditions of 1595 and 1617, and still longer before the Dutch first visited the country in 1598.

The Dutch never succeeded in establishing themselves there till towards the close of the first quarter of the seventeenth century; and then only by means of a belligerent corporation which came into existence at the close of the twelve years' truce in the long war between Spain and her revolted Dutch provinces.

The hostile possessions thus obtained by Holland were confirmed to the States-General by the Peace of 1648, when Spain acknowledged their independence.

Through the various international changes and transactions, subsequent thereto, Guayana is now partitioned among as many as five separate and independent nationalities, namely, Portuguese (now Brazilian) Guayana; French Guayana; Holland still retains what is known as Dutch Guayana—having, in 1814, ceded to England the portion now known as British

Infra, Part II.

Ib. Id. pp. 71-3 et seq.

Ib. Id.

¹ The Dutch West India Company, chartered in 1621.

Guiana; and Venezuela, as the inheritor of Spain, came into possession of Spanish (now Venezuelan) Guayana in 1811.

For the purposes of our present inquiry, we are concerned only about the two last named, that is to say, the two adjacent portions belonging to Venezuela and Great Britain respectively; for somewhere between them is the rightful boundary line "between the Republic of Venezuela and the colony of British Guiana" which we are seeking.

Location of the Territories in dispute. Then, as contemplated by the present Treaty of arbitration, are limited to the districts or tracts between the Orinoco and the Essequibo rivers. Or, to adopt the language of an acknowledged English authority, "the disputed territory commences" on the western bank of the Essequibo "river, and extends to an undefined distrance towards the Orinoco."

It will be observed that, if we accept this English definition, the British pretention has a starting point, but is practically without a terminus. Spain always claimed, as Venezuela has claimed, the Essequibo river as the de jure boundary line. Holland, through which England derived title, never claimed any definite boundary line west of the Essequibo. While Great Britain claims sometimes a fifth, sometimes a quarter, sometimes a half, sometimes three quarters, and

¹ Mr. E. F. im Thurn, Magistrate of British Guiana, Docs. Wash'n Com., Vol. II., p. 710.

sometimes nearly the whole of the territories between those two great rivers. So that, to adopt the language of Mr. Bayard, Secretary of State of the United States in 1885–9, the British claim is confessedly so indefinite that it naturally "creates an apprehension that it "does not follow historical traditions or evidence." ¹

Being thus indefinite and flexible in character, the British claim has not been always limited even to the Orinoco; for within the last few years it has been so expanded as to include one of the main estuaries, and one or more of the delta islands, of that river. We allude, of course, to the Barima Channel, and to the Moro Passage as part of that Channel (which taken together constitute the eastern estuary of the Orinoco), and to Barima island, which is one of the delta group.

Disputed Territories, Three scribed, the territories now
Distinct Tracts. in dispute comprise three
separate, well defined Tracts, each of which
is marked by natural boundaries of rivers
and mountains, and may be conveniently
classified as follows:

1. The first and most important is the coast region or tract between the principal mouth of the Orinoco and the mouth of the Moroco, bounded north by the Atlantic, and south by the unbroken range of Imataca mountains; a vast parallelogram containing an area of some ten thousand square

Inst. to U.S. Minister at London, Foreign Relations, U.S.

miles. It is watered by the navigable rivers Imataca, Aguire, Aratura, Amacuro, Barima and Waini, besides a great number of smaller streams and cross channels of caños, most of which are navigable, and all of which find an outlet in the eastern estuary of the Orinoco. ¹

Docs. Wash'n Com., IV., Atlases. The Waini and Barima rivers are connected by, or rather both disembogue into, the *Moro Passage*; a wide and deep channel, navigable by the heaviest marine vessels, which, extending across from the coast to the western end of the Barima Channel, forms the eastern boundary of the Island of Barima, one of the largest of the great delta group.

The Amacuro and Araturo are similarly connected, farther up from their mouths, by a deep, natural channel called the Cayoni Passage; thus forming another large island of the delta group. And so in fact of all the other rivers named. All are connected by cross channels, through which the marine tides flow alternately back and forth, thus forming some half dozen or more islands of the great delta group east of the main estuary.

On the coast, some 75 or 80 miles east of the *Moro Passage*, in about 58° 45' west longitude, and 7° 30' north latitude, is the mouth of the Moroco; a comparatively small but deep river, which has its sources in a northern spur of the Imataca mountains, and flows in general direction north-

t We do not except the Waini, because its present mouth is not on the coast at all, but in the northern arm of the Moro-Passage, which, together with the Barima Pass, constitutes one of the navigable estuaries of the Orinoco. See Maps Nos. 1-15, Atlas of the Wash'n Com.

east to the Atlantic. Some little distance above its mouth, the Moroco is connected with a navigable bayou of the upper Waini by a deep channel called El Caño Itabo: thus forming the eastern boundary of the long, narrow island, bounded north by the Atlantic, south by the Waini river, and west by the Moro Passage already described. Just above the western terminus of the Caño Itabo, and connected with it by the upper Waini, is the remarkable cross channel, Itabo Morebo, which connects the rivers Waini and Barima; thus forming a second long, narrow island parallel with the first, having the eastern extremity of the Barima Channel for its western limit.

Although this entire region, or tract, so distinctly marked out by natural monuments, is in reality but an integral (and practically inseparable) part of the great Delta Region of the Orinoco, and is generally so classified by modern geographers. We shall, for the sake of convenience, refer to it as the Northwest Coast Region.

2. Back of this, to the southeast, lies the great Interior Basin of the Cuyuni-Mazaruni, a vast lozen-shaped tract, completely cut off from the coast region by the Imataca range of mountains on the north, and still more effectually separated from the Essequibo drainage region by the great Roraime-Pacaraime range of mountains on the east and southeast. This last named range extends from the southermost corner of the great Interior Basin northeastward across to the eastern spur of the Imatacas at the first or lower Falls of the

Docs. Wash'n Com., Vol. IV., Atlas No. 3. rivers Cuyuni and Mazaruni, just above their confluence, some eight miles west of the Essequibo; thus forming a natural barrier to the Interior Basin Region, on itseastern and southeastern sides.

The western side of this Interior Basin is separated from the Orinoco drainage basin only by gentle slopes and undulating plateaux which form the water-parting rim; so that all the natural, and indeed only available, approaches to it are from the Orinoco side.

This Interior Basin has been compared to a great dish which, "dipping northeastward, throws all its waters to what is virtually a single point, where they break through the encircling rim, and thence flow down, in a single stream of less than a dozen miles in length, to the Essequibo."

We shall refer to this as The Cuyuni-Mazaruni Region.

3. The third tract is a small triangular-shaped strip of territory between the Essequibo and Moroco rivers, having some-twenty-four miles of Atlantic seacoast for its base, the Essequibo river for its eastern side, the Moroco river and the northern spur of the Imataca range for its western side, and its apex near the first or lower falls in the Essequibo, a few miles above the mouth of the Cuyuni.

It will be observed that each line and corner of this triangle is distinctly marked by natural monuments. Thus, on the seacoast, we have the mouth of the Moroco, which is the dividing line whence all northward is Orinoco delta, and all east-

Docs. Wash'n Com., Vol. IX. Briefs and Notes.

Does, Wash'n Com., IV., Atlas, Maps No. 1-11. ward is Essequibo delta. Following the well defined water-partings thence, without crossing a single stream or a single mountain range, we come to the next corner at the first or lower falls of the Cuyuni, where that river breaks through the mountain rim at an altitude of more than 250 feet. The third corner is marked by the great geological break which, after making the first or lower falls in the Mazaruni, crosses the Essequibo where it makes the first or lower fall in that river, some sixty miles from its main mouth.

Within this Tract all the streams save one are mere tributaries of the western estuary of the Essequibo. The exception named is the Pumaron, a small river which rises at the foot of the water-parting ridge, already alluded to, in about 59° west longitude and 7° north latitude; flows thence in general direction northeastward to about 58° 4′ longitude and 7° 25′ latitude, whence it turns sharply northwestward and runs parallel with the coast, thus forming what is known as Cape Nassau, a little eastward of the mouth of the Moroco.

The Wacupo creek, a small stream of a few miles in length, and nowise connected with the Moroco, except in time of protracted rains and floods, disembogues into the west bank of the Pumaron a few miles above its mouth.

For the sake of convenience, we shall refer to this triangular strip as The Essequibo-Pumaron Region.

Ib. Id.

Topography The Imataca range of the Northwest mountains. already Coast Region. ferred to, running almost parallel with the coast, forms a natural barrier between the Northwest Coast Region and the Cuyuni-Mazaruni Region. True. it is not so high and steep as the Roraime-Pacaraime range which marks the limit of the great Interior Basin on the southeast and east: but it is nevertheless an unbroken mountain wall ranging from 300 to 560 feet above sea level, and difficult to overpass. Indeed, so far as is known, there are but two passes over it, and these are so narrow, steep and tortuous as to be practically unavailable. They were seldom used, even by the aborigines, in early times, and are less used to-day: the usual, and in fact only available route being then, as now, up the main estuary of the Orinoco to a point just above the Delta, and thence overland to the Interior. It was by this route that the Spanish discoverers and explorers entered this great Interior Basin; and by holding the Orinoco as the gateway to it, kept all second comers out.

Infra, pp. 31-32 et seq.

Br. Blue Book, Venez., No. 2, p. 222. Schomburgk, who, during the period of his ill-advised agitation, in 1841, passed over one of these ancient Indian trails in the Imatacas to the head of the Acarabice creek, and thence down to the Cuyuni, considered this mountain barrier sufficiently formidable to constitute "a boundary line on the principle of natural divisions"; and the British authorities of Demerara seem to have been of like opinion when, after their

armed invasion west of the Moroco, in 1884-5, they attempted to establish what they were pleased to call "the Northwest District of British Guiana" with the Imataca range as its southern boundary.

From the northern or coast side of this range, three short spurs break off at an angle of about forty-five degrees, on or near the 62d, 61st and 60th meridians respectively, and extend in almost parallel lines northeastward to the edge of the plane. On the sides of these spurs, and on the sides of the main range between them, are the sources of the five rivers Imataca, Aguire Amacuro, Barima, and Waini. All these rivers, after flowing less than half their respective distances northeastward, turn sharply to the westward, and run the balance of their way northwest, parallel with the coast, and disembogue into the eastern estuary of the Orinoco, less than sixty miles apart, between the Imataca Island and the coast end of the Mora Passage.

The two long, narrow, half submerged islands—parallel with the coast—formed by the Waini and Barima rivers, the Mora and Barima Passages, the Moroco river, and the Itabo and Itabo-Moreba caños, are in reality parts of the Orinoco delta group. For it cannot be said with any degree of geographical accuracy that either of the rivers Waini or Barima disembogue into the Atlantic; since one flows into the Moro Passage and the other into the Barima Caño and these two channels, taken together, form what may be considered the most easterly of the Orinoco estuaries.

Docs. Wash'n Com. IV., Atlas, Maps 1-11.

Ib. Id.

Docs. Wash'n Com., Vol. IV., Atlas, No. 4. The two long narrow parallel islands, above described, are of pure alluvium formation; and the same is generally true, not only of Barima island, but of the entire Northwest Coast Region southward as far as the junction of the Amacuro and Yarakita rivers, and eastward from the Kaituma (an affluent of the Barima) to the Itabo Moreba channel.

Back of this half submerged alluvium

Ib. Id.

belt lies the narrow strip of granite and svenite formation covered with virgin forest; and back of this last, extending up to the foot of the Imatacas, is the broad belt of schist and gneiss formation, covered with forest and jungle. At the southwestern extremity of this tract, between the head of the Delta and the mouth of the Imataca river, and extending back some miles towards the Imataca range, is a narrow strip of country usually described as "open, gently undulating grass land called savanna." To the southeast of this, along the foothills of the Imatacas, between the 7th and 8th parallels, and extending several miles on both sides of the 60th meridian.

Docs. Wash'n Com., IV., Atlas, Map No. 2.

Topography of the Cuyuni-Mazaruni Region, at its extreme southern corner, in about 5° 15′ north latitude, and 60° 45′ west longitude, stands the famous Mt. Roraime. It is an enormous crab-shaped block of solid sandstone, several leagues in length and breadth, resting upon a region fully 5,000 feet above sea level, and ex-

are the rich gold deposits of this region.

tending thence upward in almost perpendicular walls some 3,000 feet higher—thus giving an aggregate height of some 8,000 feet above the sea.

From this remarkable mountain a long arm stretches out eastward, between the Mazaruni and Essequibo rivers, some 160 miles in length, to the junction of the Mazaruni and Cuyuni; forming the waterparting between the Mazaruni and Essequibo, and at the same time the southeastern rim of the great Interior Basin we are considering. This dividing ridge, at its lowest point, rises about 2,500 feet above sea-level; and taken as a whole, presents the aspect of an unbroken wall which is skirted, or rather cut into, at its base, on its northwestern or Basin side, by the river Mazaruni. On the right, or mountain side of the river, cliffs and precipices rise to altitudes ranging from 1,200 to 2.000 feet, and extend almost unbroken the greater part of its length; so that the summit is accessible only where an occasional small stream, rising on its surface above, has cut a sloping cañon down to the plain.

The Mazaruni itself has its ultimate sources on the sides and crest of this dividing range, not a great distance from Mt. Roraime; and from altitudes ranging from 3,000 to 3,500 feet, the river cuts its way thence down through steep cañons, and finally drops over the great Peimah Falls, where, in the language of a scientific explorer, Mr. Barrington Brown, it "de-"bouches from the Sandstone mountains "to the great plain of its lower course."

Docs. Wash'n Com., IV., Atlas.

Barrington Brown, Assc. R. S. M., "Canoe and Camp Life," pp. 81-6, 258, 376-98. Ib. Id.

Ib. p. 66.

Ib. Id. pp. 76, 77.

Ib. Id. p. 80.

From the brink of the great escarpment, on a spur of this range, at an altitude of nearly 3,000 feet, Mr. Brown (who, as government surveyor, explored this region in 1875,) saw "the great level tree-clothed" plain through which the lower Mazaruni "winds" its way to its outlet at the extreme northeast corner of the Basin.

On another occasion, passing along up the Mazaruni for several days in succession, he saw "the edge of the great table-land" on the left, "rising to a height of over "2,000 feet above the intervening forest-"covered plain, with pinkish gray prec-"ipices," and, at intervals, "huge wooded bluffs."

Of a point higher up the river he says:

"Fine views were obtained of the eastern end of a huge flat-topped mountain called Waterbarru, with perpendicular sides of about 2,000 feet in height, near which was a high irregularly conical peak."

"We passed on our way close under Waterbarru mountain, one of the jutting spurs of the great Sandstone mountains. Groups of trees grew upon it in clusters where they could gain a footing in little slopes, but the greater portion of its sides was composed of bare grayish and pinkish horizontal beds of sandstone."

He thus describes his climb over what he calls a "pass" of this dividing ridge:

"We ascended rapidly for many miles, having in two places to climb escarpments of over 400 feet each. Gaining a plateau 2,590 feet above the sea, we traversed it for some distance, coming out at 4:30 r.M. on the edge of what appeared to be a precipice. There the path led down at an angle of 60°, and long bush-ropes for the first hundred feet had been tied to the trees to assist in the ascent and descent of the place. The rest of the way was not so steep, but in places we had to grasp saplings and tree roots to assist in lowering ourselves down. We gained a

level place at the foot, 645 feet below the edge of the precipice, where there was a fine stream, at which we stopped for the night," etc.

On the top of this plateau he saw "a "high, massive mountain, 5,000 feet in "height," and the "pass" he crossed was, he says, "3,327 feet above the sea."

Such is the northern or Basin side of this dividing range. The most noted feature of its south flank is the great Kaiteur Falls, where the Potaro river drops over a precipice of more than 800 feet high, above which "is a long, sloping succession of "cataracts, which, taken together, give a "height almost as great as Kaiteur." Above these is still higher mountain ground, necessarily extensive, where the river has its ultimate sources.

The fact that all the waters which fall on the northern and northeastern sides (i. e., on the Basin sides) of the Roraime-Pacaraime group have to skirt the edge of this high mountain rim, fully 200 miles, to the extreme northeastern corner of the great Interior Basin, before finding an outlet over the first or lower falls, sufficiently demonstrates the character of this natural barrier.

On the northern side of the Basin we find similar conditions. All the streams having their sources on the southern or, Basin side of the Imatacas, flow down into the Cuyuni, which skirts the extreme eastern end of that range a considerable distance before finding an outlet in the Great Falls, just above the Mazaruni junction. Schomburgk, who, in 1841, while making his survey, passed down the Cuyuni

Ib. Id. p. 265.

Geogl. Survey, Brown & Sawkins, pp. 288, 289. Br. Blue Book, p. 225. from the Acarabisi Creek, and through the mountain gorge at the eastern corner of this Interior Basin, just above the Mazaruni confluence, describes that point as "a small "range of mountains through which the "river has broken itself a passage."

Henry I. Perkins, F. R. G. S., in *Timehri*, June, 1893, p. 75. The nature of that "passage" is now better known. It consists of a series of steep cataracts by which the river falls over 200 feet in less than 30 miles. "It has long been known," says Surveyor Perkins, "as among the most dangerous, if not the most dangerous, of all the large rivers of British Guiana"; an obstacle which, he says, stopped all progress of settlement in that direction.

Br. Blue Book, p. 227. Even Schomburgk admitted that "the "difficulties which the Cuyuni presents to "its navigation, and those tremendous "falls which impede the river in its first "days' ascent from the Essequibo, would "prove a great obstacle to making the fer-"tility of its banks available to the Col-"ony."

The Local Guide of Demerara, a semiofficial British publication of some nine hundred pages, containing the colony laws, regulations, civil list, etc., says of this region:

" Local Guide," 1843, p. II. "The banks of the Essequibo are inhabited only "by a few scattered wood-cutters; and above the "rapids, which occur about fifty miles from its "mouth, there are no inhabitants except Indians." The same is the case with the two greattributaries "of the Essequibo, the Cuyuni and the Mazaruni which come from the west and southwest. These "rivers unite about eight miles from the Essequibo," and their united stream joins that river about forty

"miles from its mouth. A short distance above "their junction, these rivers become impeded by "rapids, above which they are frequented only by a "few wandering Indians."

Mr. E. F. im Thurn, member of the Royal Geographical Society, speaking from personal knowledge of this locality, in 1880, says: "It is at present impossible to cut timber "profitably beyond the Cataracts, owing to "the difficulty of carrying to market. "This part of the country, which is inhab-"ited only by a few negroes and Indians," etc., etc.

Above the first or lowest Cuyuni falls, he says, the country is "entirely uninhab-"ited except by a few widely-scattered "Indians of four or five different tribes."

This was only seventeen years ago.

Rodway, the historian of British Guiana, in speaking of the recent efforts to establish British armed stations in this great Interior Basin, says:

"Another move in the same direction was made in 1892, by establishing a boundary post up the "Cuyuni, near its junction with Yuruan. Except for its bearing upon the boundary, this post is quite useless and might be abandoned if the question were settled; under present circumstances, how-were, it is highly desirable that it be kept up, not-withstanding the fact that the police who reside there have to perform a very hazardous and long journey of forty or fifty days to reach it, and then "are cut off from all communication until relieved."

It is manifest then, that the Cuyuni-Mazaruni Region is a great Interior Basin of comparatively flat surface; that along its extreme southern and southeastern edge the river Mazaruni wends its tortuous way to its lower falls, just above the Cuyuni

Proceedings R. G. S., 1880, pp. 465-6.

James Rodway, F. L. S., Hist. Br. Guiana, Vol. III., pp. 280-1.

junction; that the Cuyuni, receiving all the waters falling south of the crest of the Imataca range, similarly skirts the northern edge of that Basin some distance before finding an outlet at its lower falls; that the lower falls in both rivers are almost directly opposite each other, and separated only by a few miles of almost impassable mountain; and that all the natural and available approaches to this region are, not from the Essequibo but, from the Orinoco And this, as we shall have occasion to point out further on, is precisely where the history of the settlements in that region, and the habits of the settlers themselves, show the natural and only available approaches to have been since the first discovery and exploration of the country.

Infra, Part II.

The western edge of this great Interior Basin merges almost imperceptibly into the rolling prairies of the Orinoco drain-Indeed, the water-parting beage basin. tween them is of so gradual and gentle acclivity as to be scarcely perceptible, and may be overpassed without difficulty or even notice. So that from the Orinoco-Caroni side, eastward as far as the Curumo (an affluent of the Cuyuni), is an immense area usually described as "open, gently undulating, grass land, called savanna"; while beyond this to the eastward, between the Mazaruni and Puruni, and extending to the gold-mining regions, is "the great tree-covered plain" or table-land.

The richest gold deposits of this Interior
Basin are located between the 6th and 7th

Does. Wash'n Com., Vol. IV., Atlas, Map No. 3. parallels north latitude, and the 59th and 61st meridians west longitude.

Topography of the Essequibo-Pumaron Region.

With respect to the Essequibo-Pumaron Region, already described, little

remains to be said. Its geological formation is very similar to that of the country west of the Moroco and the water-parting ridge which separate the delta drainage basin of the Orinoco from that of the Essequibo. On the coast, between the east bank of the Moroco and the western estuary of the Essequibo, and extending back some three or four miles, the soil is pure alluvium. Back of this is the wider and more elevated belt of sand and clay deposit. And back of this last, is the granite and syenite formation, of little value for agricultural purposes.

Such, in brief, is the geographical position, and some of the more striking topographical and geological features of the territories in dispute; features which, it is scarcely necessary to point out, bear a most important relation to the merits of the case before us. We now propose to inquire, briefly as possible, first, into the original discovery, use and occupation of these three several Tracts; and, second, as to whether any one of them as a whole ever belonged to, or might lawfully be claimed by, the United Netherlands, through which Great Britain claims title.

Docs. Wash'n Com., Vol. IV., Atlas, Map No. 4.

PART II.

DISCOVERY AND OCCUPATION.

On the discovery of the American continent, the great nations of Europe were eager to appropriate to themselves as much of it as they could respectively acquire. Its vast extent stimulated the ambition and invited the enterprise of all, and the savage character and nomadic habits of its native inhabitants afforded an excuse for considering them as peoples over whom the superior genius of Europe might claim ascendancy. The rulers of the Old World, stimulated by self-interest, found no difficulty in persuading themselves that they made ample compensation to the inhabitants of the New, by bestowing on them Christian civilization in exchange for political autonomy and unlimited independence. But as all were in pursuit of the same object, it was but natural that conflicting claims should arise between them; and in order to prevent or to amicably adjust these, it became necessary to establish some general principle, having the authority of public law, by which the right of acquisition should be regulated between themselves.

Marshall, C. J., 8 Wheaton, 572. The general principle adopted was that discovery gave title to the government by whose subjects or by whose authority the discovery was made; and that the title thus acquired might be consummated, later on, by use or occupation. Title thus acquired presupposed an intention, expressed or implied, to use or occupy; but when duly authorized and publicly proclaimed, discovery was held to imply such intention, and, in the meantime, to vest in the discovering nation the right of political control over vast unoccupied areas. It vested in the discovering nation the exclusive right of acquiring the soil from the native savage occupants, and of establishing settlements thereon. This was a right with which no Europeans could interfere. was a right which all asserted for themselves, and to the assertion of which by others all assented."

True, there was generally some pretense of respecting the Indian right of occupancy; but this was seldom more than pretense. In every instance the discovering nation asserted and maintained the right of ultimate domain, and claimed and exercised the exclusive right to grant the soil while it was yet occupied solely by the native savage tribes. Such grants were common occurrences, and were uniformly conceded to convey good and perfect title as against all other European nations and peoples. The Indian tribes, in a savage state, had no such title to the land where they dwelt or roamed as enabled them to confer it upon another Government or its subjects, and any treaty or pretended treaty to that effect between them and a foreign Government or its subjects was null and void ab initio.

Ib. Id.
 2 Paine's Reps. 457.
 Wharton's Dig.
 §§2, 209.

8 Wharton's Dig. 543, 587. 10 and 16 Peters, 303 and 367. Kent's Com., III., pp. 360-400. Whart. Dig., I., 32.

Such was the settled policy of those early times, and an acknowledged part of the International code of the Christian world.

Twiss, Law of Nations, §§111-114.

Lawrence, Law of Nations, §93.

Since then, the law of nations and the opinions of mankind in general may have undergone many changes. It would be. indeed, surprising if they had not. Yet, even now, notification of discovery creates such a presumption of intention to use or occupy as will be generally respected by other nations. Moreover, it is an acknowledged principle of modern international law that the right of nations to countries discovered in the fifteenth and sixteenth centuries must be determined, not by the improved and more enlightened opinion of modern times, but by the law of nations as it was understood and acknowledged at the time of the acquisition. "It will hardly be denied," says an eminent modern jurist, "that rights acquired by the general consent of mankind, even under the crude and erroneous views of an unenlightened age, are protected against changes of opinion resulting merely from the more liberal or

Upshur, Sec. State, 1843, Whart. Dig., I., §2.

more just views of after times."

Another fundamental principle applicable to the case before us, is, that where there is a well defined Tract, the boundaries of which are marked by natural monuments, such as rivers and mountains, discovery of a part is deemed to be a discovery of the whole; and the occupation of a part in the name of the whole, by the discovering nation, is, in law, an entry upon possession of the whole. Such discovery and occupation embraces the whole region

Twiss, Law of Nations, 22115-116.

within those natural boundaries which are essential to the convenience and security of prospective settlement, the right of discovery being coextensive with such limits.

In the application of these general principles to the case before us, it will be convenient to consider,

I. The period from the date of the first discovery of Guayana, in 1498-9 to 1648, when the Treaty of Münster was signed; and,

II. The period from 1648 to 1814, date of the final cession to England by Holland of the three establishments or settlements in Guayana, known as Demerara, Berbice and Essequibo.

And first, briefly as possible,

I. FROM 1498-9 TO 1648.

It was during his third voyage, in 1498, that Columbus, sailing under commission by Ferdinand and Isabella, discovered the island of Trinidad, the gulf of Paria, the Orinoco delta, and a portion of the Northwest Coast Region of Guayana.

One year later, in 1499, Alonzo de Ojeda, a Spanish subject commissioned by the Crown of Spain, skirted the entire coast of Guayana from the Amazon to the Orinoco, landing at several places, and taking formal possession in the name of the Spanish sovereigns.

Later on, in the same year, Pedro Alonzo Niño and Cristoval Guerra, both Spanish subjects under commission, sailed along the Northwest Coast Region of Guayana, landed near the mouth of the Orinoco (most probably on or near the island of

Irving, Life of Columbus, B.X., loc. cit.
Justin Winsor, Nar. and Crit. Hist., II. and III., loc. cit.
Robertson, Hist. of America, II.
Dalton, Hist. Brit.
Guiana.

Ib. Id.

Irving, Voy. and Dis. 6, II., loc. cit.

Barima), where they cut dyewoods for the European markets.

In 1500 Vicente Yañez Pinzon, a Spanish navigator under commission by the Court of Spain, was the first to explore the great Delta Region of the Orinoco.

In 1502, Ojeda, during his second expedition, likewise under commission by Spain, sailed along the coast between the Essequibo and Orinoco, passed through the Serpent's Mouth into the Gulf of Paria, and thence out through the Dragon's Mouth to the island of Margarita.

In 1530, Pedro de Acosta, a Spanish subject under commission, with two small caravals and three hundred men, came from near Cumaná (where the Spaniards already had a settlement) to the mouth of the Barima river, intending to establish a colony there, but was defeated in his purpose by a tribe of native savages.

In 1531–2, Don Diego de Ordaz, at the head of an expedition sent out from Spain, first explored the Orinoco river, which he ascended as far as the mouth of the Meta; penetrated the edge of the great Interior Basin of the Cuyuni-Mazaruni, entering it, as all subsequent explorers and adventurers entered it, from the Orinoco side, and subsequently received from the Spanish Crown the first grant of lands and government in Guayana.

In 1549 an authorized Spanish expedition under Ursura entered Southern Guayana by way of the Amazon and Rio Negro, passed through the Casiquiere Channel to

Ib. Id. Herrera, III., C. 10.

Irving, Voy. and Dis., loc. cit.

Rodway & Watt, Annals of Guayana, I., pp 8-9, loc. cit. Winsor, II., III.

Winsor, Nar. and Crit. Hist., II., loc. cit. Rodway & W., Annals Guay., I., pp. 9-11.

Winsor, II., Bancroft, Hist. Cent. Am., II. the upper Orinoco, and thence down the Orinoco to the Atlantic ocean.

Thus, before the middle of the sixteenth century, and before the country had been visited by other Europeans, the Spaniards had completely circumnavigated the whole of Guayana.

Between the years 1552 and 1569 there were more than twenty expeditions to the Orinoco, and thence to the interior; all of which were Spanish, commanded by Spanish subjects duly commissioned by the Spanish Government.

As early as 1568 the Spanish Government ordered that a survey be made of the territories of the Orinoco; and Pedro Malaver de Silva and Diego Fernando de Serpa were named as Governors—the first over the territories west, the second over the territories east of that river; thus appropriating the whole Orinoco drainage basin, from the mouths to the sources of that river.

Some time before this, the Indian village of Carão, near the mouth of the Caroni river, (found there by Ordaz in 1531-2,) had become the site of the first San Thomé de la Guayana, which was sacked and destroyed by pirates late in the sixteenth century.

In 1591, four years before Sir Walter Raleigh first visited the country, the town and garrison of San Thomé de la Guayana were rebuilt by Antonio de Berreo at a point lower down the Orinoco (not far from the present Las Tablas or Guayana vieja), where they remained till 1764-5,

Ib. Id.

Docs. Wash'n Com., IX., Brief.

Ib. Id.

Winsor, II., loc.

Netscher, "Geschiedenis," &c., p. 20.
Span-Venez. Docs., I., C. VI., p. 30, Schomb.'s Raleigh, p. 79.
Gumilla, p. 9.

Ib. Id. Span-Venez. Docs. I. (Vol. VIII. of the Wash'n Com.) when, by order of the Home Government, the town was moved up the river to a more healthful and available site, called Angostura ("the Narrows") now known as Ciudad Bolivar.¹

Hackluyt, XV., pp. 69-71. Span-Venez. Docs., V. I. Schomb.'s Raleigh, p. 79, note.

Dutch Archives, Rep. & Docs. Wash'n Com., Vol. II., p. 18.

Ib. Id. Cabeliau's Rep., p. 20. Netscher, C. III.

Hackluyt, XV., 70.

Captain Lawrence Keymis, Raleigh's lieutenant, in his report reproduced by the Hackluyt Society, says he saw this town of San Thomé de la Guayana in 1597; and that on the river island of Faxardo, nearly opposite, the Spaniards had erected fortifications which protected the town, and also effectually closed the river Orinoco to hostile fleets. The Spaniards appear to have been there in strong force, for Keymis reported that, up the Caroni there was undoubtedly "much gold," which however was not accessible except by an armed force "sufficiently strong to attack and dislodge the Spaniards," who were then in possession. And this is confirmed by the subsequent report by Cabeliau in 1599.

On the approach of the English, according to Keymis, the Spaniards stationed themselves at the mouth of the Caroni "to defend the passage to those mines "from whence your Oare and white stones

Throfessor Jameson says, (Rep., June 11, 1896, pp. 39-40, Vol. I., Docs. Washn. Commn.) "the town of Santo Thomé de la Guayana was founded by Antonio de Berreo probably in 1591 or 1592," which is the latest date given as the origin of that town. He predicates this upon a statement by Fray Pedro Simón, in his "Noticias Historiales," etc. This, rowever, evidently relates to the second San Thomé, rebuilt by Berreo not later than 1592. The weight of testimony is that there was a first San Thomé, some thirty years bofore, situated farther up the river, as stated in the text.

"were taken last yeere; we all not without griefe see ourselves thus defeated and our hungry hopes made voyde."

Further on, in his report, Keymis says:
"Sorry I am that where I sought no ex"cuse by the Spaniards being there, I
"found my defeat remediless."

And again, that "the Amapagotos have "images of gold of incredible bignesse," and great store of unmanned horses of "the Caracas breed: and they dwell five "dayes iourney up the River about Caroli." Wee, with our fleete of Canoes, were not farre from Carapanas Port, when our intelligencer returned and informed us that "tenne Spaniards were lately gone with "much trade to Barima, where these Indians dwelt, to buy Gassani bread; and "that within one day two other Canoes of Spaniards were appointed to come by the "River Amana, to Carapana his Port."

"Horses of the Caracas breed" were, of course, those which had been introduced into the country by the Spaniards. It is likewise manifest, from the last sentence in the above extract, that the Spaniards were in frequent intercourse with the Barima region, "where only Indians dwelt." Gassani (cassave) bread was then, as it is still, the native staple food of the country, and the chief support of the rural classes.

Sir Walter Raleigh made his first visit to the country in 1595. While near the mouth of the Caroni, bold and reckless as he was, he feared to venture into the interior, because having, as he says, but fifty trained soldiers, "the rest being labourers Ib. XV. p. 80.

Ib. Id. p. 69.

Schomburgk's Raleigh, 92, 149.

and rowers," he was unable to leave sufficient force to guard his base at the river, and then adds, significantly, that

"without those things necessarie for their defence they should be in danger of the Spaniards in my absence."

In other words, he apprehended Spanish reinforcements, not from Spain, but from New Granada and the adjacent Spanish settlements in what is now Venezuela.

Hackluyt, XV.,p.72.

Keymis had the same apprehensions during the second Raleigh expedition; for speaking of another place where there were but ten Spaniards, he said he was afraid to pass it, because they

"might well before wee could do anything and "return cause some others of Berreo his men to "ioyne with them in the way to intercept us."

It is very manifest from all this that the Spaniards already occupied the country, and had so knit together their possessions that the strength of the whole was available for each of the parts; so that even a thinly settled district, such as San Thomé is alleged to have been, was already a stronghold and commanded the only available entrance to the interior.

Speaking of the region east of the Orinoco, between the Imataca range and the Caroni river, Raleigh describes rich savannas

Schomb.'s Raleigh, p. 98.

Rep. & Docs. Wash'n Com.,

Vol. I., pp. 40-42.

"some sixty miles in length, east and west, as "fair ground and as beautiful fields as any man hath "ever seen, with divers copses scattered here and "there by the river's side, and all as full of deer as "any forest or park in England."

And in a note to this, Schomburgk says these are "the plains of Upata and Piacoa,

"formerly the site of numerous [Spanish] missions."

Now it was precisely across these open and gently undulating savannas that the natural approach to the great Interior Basin of the Cuyuni-Mazaruni lay, and it is still the only available route thither. The traveller makes his way up the easy slopes to the top of the water-parting between the Orinoco and the Cuyuni drainage basins, where is spread out before him an expanse of savannas as far as the eye can reach, inviting the settler to advance and take up his abode in a region unsurpassed in beauty of scenery and healthfulness of climate. All other approaches to this region were (and are still) obstructed by natural barriers; so that the Spaniards, by holding the Orinoco, held the key to the great Interior Basin of the Cuyuni-Mazaruni.

With respect to the Essequibo-Pumaron Region, while the evidence is less voluminous and direct, there is hardly room for reasonable doubt that the Spaniards were the first discoverers and occupants. Ojeda probably touched at the Essequibo delta during his first voyage, in 1499. In 1553 the Spaniards appear to have held the entire river up to the first falls, some 55 or 60 miles from the coast. In 1591, date of the rebuilding of San Thomé, they had established a fort (El Burgo) at the junction of the Cuyuni and Mazaruni. 1596 they were found in strong force on the Essequibo estuaries. Rodway, the

Supra, Part I.

Cartas de Indias, with sketch map (Madrid, 1877), in Cong. Library, Wash'n.

Rodway, Ann. of Guayana (1887), pp. 7-47. Netscher, Ges. de Ko. Essequibo, (1888-96.)

British annalist, and Netscher, the Dutch historian, both affirm that the river Essequibo owes its name to Don Juan Essequival, one of the lieutenants of Diego Columbus

Blue Book, Venez., No. 1 (1896), p. 4. The British Contention as to Dutch Settle-1590.

The British assertion is that "there is abundant "evidence coming from ments Prior to "Spanish sources that "during the latter half

"of the century prior to 1590, the Dutch "had established themselves on the coast "of Guiana"

Docs. Wash'n Com., Vol. I., p. 57.

This is only an assertion, and nothing more: for there is not a particle of evidence adduced in its support. The vague and indefinite marginal citations are to papers covering a period of more than a hundred years, and have been shown to be totally unreliable.1 Prior to the year 1581, the Dutch had no national existence. Up to that time they were Spanish subjects, and such title as their explorations and commerce could give, was the King of Spain's title. Even their declaration of independence, first made in 1581, brought with it no pretense of claim to lands outside the Netherlands. The Dutch had not yet dreamed of such a claim. They had not yet so much as even visited any portion of

Docs. Wash'n Com., Vol. I. p. 137. Note.

¹ Professor Burr, historical expert of the Washington Commission, speaking of this particular assertion of the British Blue Book, says: "I can only regret, as Professor "Jameson has already done, that no item of this 'abundant "evidence' has been given to the world, and must add not " only that I have found in Dutch official sources nothing to "support this claim, but that it seems wholly inconsistent ' with what I have learned from them."

the territories now in dispute. Indeed, it is extremely doubtful whether a Dutch ship had so much as visited any part of the Guayana coast up to the year 1597. Certainly there is no well authenticated account of any Dutch vessel having visited Guayana before that time. The whole weight of historical evidence is that up to 1595, when Sir Walter Raleigh made his first visit to Guayana, none but Spaniards had ever been there, and it is certain that none but Spaniards were then found there.

The Raleigh Expeditions.

It was nearly a century after the discovery and exploration of the coun-

try by the Spaniards, that Sir Walter Raleigh saw Guayana for the first time, and he was certainly the first of the second After overcoming the Spanish forces at Trinidad, he ascended the Orinoco, sacked and burned San Thomé, and made an unsuccessful attempt to penetrate the interior. But wherever he went, he found the Spaniards in possession; so that his only hope of success lay in driving out those who had preceded him in his pretended "discoverie." To this end he sought an alliance with certain Indian chiefs, to whom he exhibited a portrait of Queen Elizabeth and promised to return and liberate them from Spanish dominion. Yet the only surviving Englishman whom he left in the country as an earnest of this promise was promptly arrested by the Spanish colonial Docs. Wash'n
Com., Vol. II.,
pp. 13-22. Note.
Winsor, Vols. II
and III.
Hackluyt, So. Pubs.

Winsor, II., III., loc. cit.

Ib. Id.

Rep. Don Roque de Montes, April, 1596, Blue Book, p. 50. In/ra, p. 50.

¹ i. e. The second San Thomé, rebuilt by Berreo in 1591-2.

authorities, who warned the Indians against all foreigners.

Immediately on his return to England, after this first voyage, and while planning for a second expedition, Raleigh wrote:

Schomb.'s Raleigh.

"For wee are not to goe as Cortez, Pisarro, or the other conquerors against a naked, unarmed people "(whose warrs are resembled by some to the children's play called Jugo de Canne). Buttwe are to "encounter with the Spaniards, armed in all respects, and as well practised as ourselves."

He well knew that he was not going to contend with native Indians, but with Spaniards who had preceded him by nearly a hundred years. He well knew that the Spaniards had come to stay, unless, perchance, he might forcibly oust them. He had no hope or expectation of ever reaching the fabled *El Dorado*, of which he was in search, without a desperate "encounter with the Spaniards," who held the only gateway to the interior.

He sent out in all four expeditions. The first, that of 1595 already referred to, he commanded in person; but he found the Spaniards too strong to allow him to accomplish anything. The second, that of 1596–7, commanded by his lieutenant, Lawrence Keymis, was little more than a mere reconnoitering party. Keymis sailed around from near the mouth of the Amazon to the Orinoco, and up the Orinoco to the mouth of the Caroni; and on his return home, wrote a careful account of what he learned, published by Hackluyt. He found that the Spaniards had everywhere preceded him. He reported, in effect,

that they dominated the whole Northwest Coast Region, and guarded all available approaches to the great interior Cuyuni-Mazaruni Basin. The Spaniards had driven some smugglers out of the Essequibo-Pumaron Region, thereby asserting jurisdiction. Near the mouth of the Moroco. Keymis says he was met by twelve canoes full of Indian warriors, ready to join him in a raid upon the Spanish settlements. But he was obliged to tell these Indians that he had not sufficient force to make any attack upon the Spaniards; and that he was there for purposes of peaceful "trade" only. He had indeed hoped to gain access to the interior directly from the coast, but found that impracticable; the only available route being from the Orinoco side, and that was still held in strong force by the Spaniards.

The third expedition, that of 1597-8, was commanded by Captain Leonard Berrie, another of Raleigh's trusted lieutenants, and is likewise reported by Hackluyt. It seems to have been a sort of tour of observation, with a view to future plans and movements. Like Keymis, Berrie found the Spaniards everywhere in full possession, and in such force that he did not dare attack them at any point.

Cabeliau's
Report,
1599.
In 1599 A. Cabeliau submitted to the States-General his report of the first authenticated Dutch voyage to Guayana. It will be found in full in volume II. of the documents herewith submitted. It is

Rodway & Watt, Annls. of Guayana, I., p. 41.

Dutch Arch., Does. Wash'n Com., II., pp. 13-22.

Netscher, C. III.

likewise quoted by Netscher, the Dutch historian, and is an independent confirmation of what Raleigh and his lieutenants show to have been the strength and persistence of Spain in holding the gateway to the great interior Cuyuni-Mazaruni Basin. This Dutch expedition, according to Cabeliau, went up the Orinoco

"to the spot or place where the Span-"iards dwell, called San Thomé, of which "Don Fernando de Berreo is governor; "and they numbered there about sixty "cavalry and one hundred musketeers who "do not cease attempting to conquer "Guiana rich in gold."

The Indians were already brought under subjection by the Spaniards, who, according to Cabeliau, "in order the better to "penetrate the interior" had begun to "make a road through the mountains, "about six days' journey south of the "Orinoco."

Does. Wash. Com. II., pp. 18-19. This road, he goes on to say, was "about 1,600 stadia long" (200 English miles), "and wide enough for five horses to march abreast." It must, therefore, have extended far into Cuyuni-Mazaruni Region. It is well known that a road answering to this description, across the easy slopes of the Piacoa range of mountains by way of Upata to the savannas of the great Interior Basin, has existed from the earliest colonial times, and is to this day the used route to the Venezuelan mines in that region. But colonists who are weak, or hold territories by uncertain tenure, do not build such

roads: hence the necessary conclusion that the great Interior Basin of the Cuyuni-Mazaruni, if not already occupied by the Spaniards, was about to be so occupied.

Cabeliau but confirms this where, further on, he says:

"To sum up concisely, up that river [the Caroni] "there undoubtedly is much gold in the kingdom of "Guiana, but for tradesmen it is not very well possible to expect any good to come therefrom, except "in case some considerable forces were available to "attack the Spaniards, which would be the only way "to get information from the Indians concerning "gold mines. For those who are enemies and "hostile to the Spaniards are friends to the Indians," who always hope that they will be delivered from "the Spaniards by the Flamingos and Angleses."

That is to say, none could penetrate the region of the fabled El Dorado except at the cost of war with the Spaniards, who already held the country. Even the fierce and warlike Carib Indians, though still refractory and troublesome at times, were so intimidated, if not subdued, that they did not expect deliverance except through the armed intervention of some foreign power.

Raleigh's Final Expedition. Such then, were the facts, and the publicly known facts, at the beginning of the seventeenth century when Raleigh was already planning his fourth and last expedition to Guayana. Pretending to have discovered a gold mine of fabulous richness, during his first voyage, he now adroitly held out the idea that he could flank the Spanish

Docs. Wash'n Com., II., p. 19.

¹ Speaking of Raleigh's first expedition to Guayana, Hume, the British historian, says: "On his return, he pub" "lished an account of the country, full of the grossest and "most palpable lies that were ever attempted to be imposed on the credulity of mankind."

Hume, Hist. of England, Vol. II., p. 90. (Ed. 1846). Note. See also Camden, p. 584.

Raleigh's "Apolo-

forces at San Thomé and reach the interior without an armed conflict. What is more likely, he hoped thus to slip by the Spaniards so that they would have to attack him, and not he them. He could then say, with at last some degree of plausibility, that he did not indeed "beginne the warre," nor seek to provoke hostilities with a friendly power. He had already dismissed from his mind all hopes of ever reaching the great Interior Basin except by the Orinoco; hence this cunning subterfuge for a final advance by way of tha river.

Schomb.'s Raleigh, p. 165. Rodway & W., Annals of Guayana, I., p. 57. We read in his "Proposals" of 1611, that he wished to send Keymis with such men

"as should be able to defend him against the "Spaniards inhabiting upon Orenoke if they offered "to assaile him (not that it is meant to offend the "Spaniards there or to beginne any quarrel with "them except themselves shall beginne the warre). "To knowe what number of men shall be sufficient may itt please your Lordshipps to informe your-selves by Captaine More, a servant of Sir John "Watts, who came from Orenoke this last spring," and was oftentimes ashore att St. Thomé, where "the Spaniards inhabite."

Ib. Id. 172, 174.

This expedition, being delayed, was finally merged into that of 1616-17, which was a most formidable array of military strength for those early times. It carried 121 pieces of heavy ordnance in one squadron of seven vessels, and was soon joined by seven more armed vessels—making fourteen in all.

Raleigh had already obtained a fair

knowledge of the country, and of the Spanish forces there. He knew by the reports of Keymis and Berrie, as well as by his own observations, previously made, that the Orinoco was the key to the Interior Basin which he sought to enter; and he knew that his entrance by this route meant an armed conflict with the Spaniards who held it. He knew moreover, that a part of the Spanish strength there lay in the ease with which reinforcements could be drawn from Cumuná, New Granada, Caracas, and other contiguous provinces. Above all, he realized the importance of keeping his rear well guarded. Hence he decided to remain with a part of his force at Trinidad, and to send his son Walter and Captain Keymis to a point on the Orinoco below the town of San Thomé.

But even here the invaders found a Spanish town of one hundred and forty houses, a church edifice, two convents, and an armed force of fifty-seven men commanded by the resolute and intrepid Gerónimo de Grados. The English forces numbered four hundred men, or say eight to one.

After a desperate fight, in which young Raleigh was killed, the English captured the town, and took up their march to the interior. But they had hardly proceeded beyond the range of their ship's guns when they were unexpectedly assailed by a strong Spanish force and driven back in confusion and dismay to their boats. After recovering from his surprise, Keymis thought of renewing the attempt to reach the interior

Ib. Id. 92, 149, 215.

Docs. Wash'n Com., Vol. IX.

Winsor, Nar. & Crit.
Hist., &c., II., III.,
loc. cit.
Hackluyt, XV.,
Schomb.'s Raleigh.
Fray Simón.

under reinforcements from his fleet; but learning that Spanish reinforcements were likewise approaching, he became alarmed, and after sacking and burning the town, beat a hasty retreat to Trinidad, where, in despair, he committed suicide.

Winsor, II., III., Hume, Hist. Eng., Vol. II. Of course the expedition was ruined, and Raleigh a doomed man. He was soon afterwards beheaded in London; technically in execution of an old sentence for treason under which he had lain for 13 years; but really at the instance of the Spanish King, whose dominions he had thus invaded.

It is impossible to disregard the significance of this bit of well authenticated history. The most accomplished and brilliant commander of England, who for twenty years had been trying to penetrate the territories now in dispute, was not only baffled by the Spanish occupants at every point; but was beheaded for depredations upon what his own soverign conceded to be indisputably Spanish territory.¹

Raleigh failed in his efforts to conquer Guayana, not for want of courage, money, or munitions of war; but because the Spaniards, who had preceded him by nearly a whole century, already occupied the country, and held it so strongly that he could not dislodge them.

Hume, Hist. England.

I King James I., of England, in "A Declaration of the "Demeanor and Carriage of Sir Walter Raleigh, Knight, as "well in his voyage, as in, sithence his Return," published in 1618, for public justification of his course in ordering the execution of Raleigh, says: "Although kings be not bound to "give Account of their Actions to any but God alone," yet, "it is confessed by all that the parts of Guiana where St, "Thomé was situate, were planted by the Spaniards, who "had divers Townes in the same tract, with some Indians "intermixed that are their vassals."

No subsequent expeditions, prior to the existence of the first Dutch West India Company in 1621, ever reversed or changed this status of affairs in Guayana. The sovereignty, if not the material occupation of each of the three tracts now in dispute remained with the Kingdom of Spain. Neither Jansen nor Raleigh nor Drake ever planted any settlements there. They did not even try to. They went there not for colonization or sovereignty, but to search for and plunder what the Spaniards said their lands contained. The Spanish coasts were often ravaged by pirates and freebooters: but the sovereignty of the country remained unchanged. In the language of Mollien. "The Spanish colossus remained "firm and unshaken: its coasts were rav-"aged, its seaport towns were burned, its "fortifications were besieged; but its ter-"ritory remained intact."

Spanish Mission Settlements. Spanish settlements and missionary stations soon began to spread eastward

from the very scene of Raleigh's defeat. They extended along the eastern shores of the Orinoco some fifty miles below San Thomé, and from the right bank of the Caroni to the Yuruary, and thence down the Cuyuni to the very center of the great Interior Basin of the Cuyuni-Mazaruni. Both Caulin and Schomburgk assert that the Spanish missionaries had begun their work there as early as 1576. In 1761 the Governor-General of Guayana personally visited many of them, and made an official re-

Mollien, Travels in Colombia, p. 124.

Caulin, p. 9. Schomb.'s Raleigh, p. 79. Span-Venez. Docs., Vol. I., pp. 203, 221., Docs. Wash'n Com., Vol. VIII.,p. 220 et seq.

Humboldt, Vol. V., p. 769. Caulin, p. 9. Rodway & W., II., p. 64.

Span.-Venez. Docs., Wash'n Com., Vol. VIII. port as to their history and condition. A corresponding report was made by the prefect, Father Fidel de Santo. According to both, a register of baptisms then existing went back to 1664, showing that the "pacification and conversion" of the Indians was then going on, and the names of various early Missionary Fathers of the different religious orders are preserved.

In 1681, the Jesuits renounced these missions to the Catalan Capuchin order, who, according to Humboldt, were "more economical and active than the other missionaries"; and by the royal decrees of 1686 and 1687, these transfers were sanctioned and confirmed by the court of Spain.

In 1723-4, an entire reorganization of these missions was effected under the immediate auspices and protection of the Spanish Government. The plan of specific missions, each with a definite foundation, was established; and, soon thereafter, the adjacent territories were partitioned by the Government between the various religious orders. Hence, in the annals of those times, the "Mission Settlements" are commonly spoken of as dating from 1723-4. That is true, however, with respect to the reorganization only; for missionary work among the Indians had been going on for more than a century before.

If we would avoid errors as to the origin of these missions, it is important to keep this distinction constantly in mind. And it should be borne in mind also that these "missions," and mission towns and settlements were something more than mere

local ecclesiastical or eleemosynary corporations under the immediate protection of the Spanish Government. They had, besides, a very distinctive civic and political character. They were clothed with certain attributes of sovereignty; and their jurisdiction often extended hundreds of miles beyond the immediate limits of the town or settlement into which the Indians had been collected. Their cattle ranches often covered vast unoccupied areas in the remote interior of what is now known as the Cuyuni-Mazaruni-Region. Moreover, Church and State being then closely united, the mission. Father was not infrequently the Alcalde or Prefect as well; and sometimes, as for instance in the adjacent province of New Granada, the Bishop of the diocese exercised the functions of Governor-General or Vicerov.

Restrepo, Hist. Colombia.

Claims of Early
Dutch Occupation.

We can readily understand, then, how a misapprehension as to the reorganization of 1723-4, led to certain errors
of statement in the British Blue Books
relative to the origin of these missions.
But there are other errors of statement
therein which are not so easily accounted
for; as for instance, where it is said that,

"In 1595, the English explorer, Captain Charles Leigh, found Dutch establishments near the mouth of the Orinoco, a fact which is confirmed by Spanish sources."

Unfortunately, the alleged "Spanish sources," are neither quoted nor mentioned; and the only citation in support of this startling assertion is *Purchas' Pilgrimes*,

Blue Book, Venez., No. 1 (1896), p. 4.

Rep. and Docs. Wash'n Com.. Vol. IX., "Fallacies," etc., p. 56.

pages 1250-1255. But the pages thus cited contain not a word about the Orinoco. nor about any Dutch establishments there or elsewhere! The letter of Captain Charles Leigh, printed on page 1254 of Purchas' Pilgrimes, is dated July 2, 1604, and relates to his voyage of that time. If he ever made a previous vovage to Guavana. in 1595, no account of it has survived. In point of fact, however, this was his first voyage, for he himself says, in the very letter referred to, that it was during this voyage, of 1604, that he got his "first sight" of Guayana. He speaks of Dutchmen in the Amazon and in the Wiapoco-nowhere near the Orinoco, and hundreds of leagues eastward of the disputed territory. "At "my arrival here," he says, "I found a "Dutch Shippe, and sithence here hath ar-"rived another, they buy up all the Flaxe "they can get," &c. No mention is made of any Dutch settlement of any kind, either here or elsewhere. Neither is any such story to be found in the narratives of Leigh's companions. On the contrary, as Professor Jameson well points out, their accounts all agree with his; as for instance, on page 1264, of Purchas' Pilgrimes, Master John Wilson says: "This Sims was "Master's mate of the Holland Shippe "which Captain Leigh found in the River "of Wiapoco at his first arrival there."

Vol. I., p. 57, Docs. Wash'n Com.

Again, the British contention is that,

"The first settlement made by Spain in Guiana "was in 1596, when Antonio de la Hoz Berrio "founded San Thomé de Guayana," &c.; and that "a despatch from Don Roque de Montes, Treasurer

Blue Book, p 4.

Ib. Id.

"of Cumaná, to the King of Spain, dated 12th April "1596, shows that the Spaniards did not then hold, "any part of Guiana."

Of course the San Thomé here referred to was the second town of that name rebuilt by Berreo in 1591-2—the first having been destroyed in 1579. In the letter of Don Roque de Montes, referred to, it is stated that he had previously instructed Captain Felipe de Santiago, of the Spanish military service, to "ascend the Orinoco and arrest two Englishmen" whom Raleigh had left there during his first raid in 1595, and also to warn the Indian Chiefs in that quarter not to receive any strangers, other than Spaniards. These instructions, he continues, were promptly and effectually carried out. The only surviving Englishman had been arrested, and the Indian Chiefs warned as directed-acts which clearly imply Spanish dominion and sovereignty. If there were any room for reasonable doubt as to this, it would be cleared up by his recommendation made in the same letter, namely, that better facilities be offered for navigating that river and its affluents; the Orinoco being then, as it had been for more than half a century, and as it continued to be for nearly two centuries afterwards, the usual, if not the only available means of communication between the coast and the remote interior Spanish settlements in what is now the Republic of Colombia.

Again on page 5 of the Blue Book, there appears as a quotation from a paper cited as

Supra, p. 33

Supra, p. 38. Blue B., pp. 50-51.

Span-Venez. Docs., Vol. I., (Docs. Wash'n Com., Vol. VIII.)

Blue B., pp. 5, 56

being reproduced in the Appendix to that compilation (page 56) the following, viz:
"The Dutch settlements in Guayana extend from

"close to the river Amazones to the Orinoco."

Yet, neither in the particular document cited, nor in any others reproduced on that page, nor indeed elsewhere in the whole collection, is there such a statement, nor anything that can suggest or be tortured into such meaning.

It is furthermore asserted in the Blue Book that

"Ibarguen in 1597 visited San Thomé; he also "visited the Essequibo and reported 'white men,' who "can be shown to have been Dutch, to be settled "high up that river."

For this there is only a general reference to a batch of letters covering a period of more than a whole century; but no text is given, and no particular letter is cited. It appears however, from a recent letter of the British Colonial Office, addressed to Prof. Burr of the Washington Commission, that Ibarguen, in a report dated from Trinidad, October 27, 1597, says that having accompanied Don Fernando de Berreo to San Thomé, he set out thence on a separate voyage to the Essequibo, where he heard "very great news of men who were clothed and fighting with arms." But who or what these men were, or when or how they came there, is not stated. Certainly the Dutch are not once mentioned; and whoever the "white men" may have been, or whencesoever they came, there is not the slightest foundation for the inference that they were Dutchmen. And at best, the 4v

Blue Book, p. 4.

Does, Wash'n Com., Vol. I., p. 60. whole story, like that of the "headless men" of Manoa, rests upon a mere fable, traceable to no definite or reliable source.

Moreover, any inference that the Dutch had settlements or establishments of any kind in Essequibo at that date, is plainly refuted by the narrative of Cabeliau. For in his report to the States-General, already referred to, he distinctly states that, in his vovage along the Guavana coast, he and his companions visited more than twentyfour rivers (the Essequibo being one of them), many river islands, and various harbors, between the Amazon and the Orinoco, which had not been previously "known or visited" by the Dutch; "and," he adds " what is more, have not been described or discovered in any charts or cosmographies before the time of our voyage" in 1597-8. De Jonge says he found no evidence in the Hague Archives of any Dutch establishments in or near the Essequibo prior to the first quarter of the seventeenth century; and we now know from authentic sources that the earliest Dutch voyage to the coast of Guavana was that of 1597-8-reported by Cabeliau in 1599. It was more than a quarter of a century after this that the first attempt was made to establish a Dutch settlement in the Essequibo.

Prof. Burr's Conclusions. Professor Burr, in his report to the Washington Commission, sums up the results of his historical studies of this period as follows:

"1. The earliest Dutch expedition to the coast of

Docs. Wash'n Com., Dutch Arch., Vol. II., pp. 13-22. Prof. Jameson's Rep., Vol. I., p. 60. De Jonge, I., p. 160.

Ib. Id.

Docs. Wash'n Com., II., 13. Note. Rep., p. 165, Vol. I., Docs. Wash'n Com. Guiana, then conceived of as a part of the Spanish kingdom of Peru, reached that coast in 1598. This expedition was formally recognized by the Dutch States-General itself as one to a place theretofore unvisited by Netherlanders.

2. The earliest Dutch settlement on this coast may possibly have been on the Amazon in the year 1600; but the earliest date at which the existence of any Dutch occupation can be affirmed with certainty, or even with probability, is the year 1613.

3. Of any claim by the Dutch to Guiana as a whole, or to any part of its western coast, there is thus far no intimation."

Of course the possible Dutch occupation in 1613 (for it is only a possibility) relates, not to any part of the territories now in dispute; but to territories on the opposite side of the continent, in what is now the Republic of Brazil.

Again, we have the British assertion that,

Blue Book, Venez. No. 1 (1896), p. 4. "Early in the seventeenth century, vari-"ous Dutch Companies, afterwards merged "into the great West India Company "were employed in colonizing Guiana, and "had established several settlements there "before 1614."

Docs. Wash'n Com., Vol. II. It is quite impossible to reconcile this statement with the Dutch archives covering the period from 1581 to 1614. Not only do those archives fail to support such an assumption, but they directly contradict it. A short historical review of the 33 years from 1581 to 1614, will make this manifest.

Dutch Arch., Docs. Wash'n Com., Vol. II., pp. 3-8. In June, 1581, as appears from the official proceedings of the provincial estates of Holland, an Englishman named Batz (or Butz) proposed to undertake "a voyage

to the Indies" in "the name of the cities of Holland," provided they would furnish "three or four serviceable ships and place "on board certain experienced persons." He furthermore proposed that, on his return, he would "land these here in Holland," and that the cities of Holland should receive "such profits" of the voyage as might be previously agreed upon.

This proposition was referred to a Committee of Conference, which, in due course made their report. But final action was deferred till July 22d of that year, when the Estates decided that "in view "of the great burdens of the land for carry"ing on the war" with Spain, it would be inexpedient to fit out the ships required for the proposed voyage. They, however, expressed a desire to see the voyage promoted, and promised to "look on with "approval if any private individuals in "the cities of Holland" would aid the project. The project, however, was never carried out.

Yet it is on such evidence as this, and on such as this alone, that rest ultimately the British claim that "so early as 1580" the Dutch attempted to form small settlements on the banks of Orinoco and Pum-"aron," and that "the States-General privileged, in 1581, certain individuals to trade "to their settlements!"

In March, 1597, at the request of certain merchants of Rotterdam, the States-General granted a commission and passport to one Jacob Henrisz to go with his

Ib. Id. p. 8.

Ib. Id. p. 8. Note.

Blue Book, No 5, pp. 22-25.

Dutch Arch., Does. Wash'n Com., II., pp. 9-10. Ib. Id. pp. 9-10.

Ib. Id.

Wash'n Com., II., pp. 10-11.

1b. Id. II., pp. 16-21. Note, p. 11.

Does, Wash'n Com, II., p. 9. Note.

ship den Rooden Leeuw "to the coasts of Guinea, [in Africa, not Guiana in America,] "Peru, and West India, and there trade "with the savages"; and it appears from the subsequent proceedings of the States-General (in September of the same year) that, up to that time, Dutch ships had not so much as visited the coasts of Guayana.

On final reference of a proposal to grant exemption of convoy dues "to others who "shall likewise desire to go to other un"known havens," the deputies of Zeeland declared themselves "uninstructed to grant" such privileges, and Professor Burr says there is nothing further of record in regard to any of these proposed voyages.

In December of the same year (1597) exemption from convoy dues was granted to "skipper Jan Cornelisz Leyn, of the "ship Sphera Mundi, citizen of Enkhuizen, "both for himself and also in the name "and behalf of the rest of his Company" to sail "to the Land of Guiana, situated in "the Kingdom of Peru"; provided that, on their return they should "bring satis-" factory evidence that never anybody from "these lands 2 has traded to the aforemen-"tioned havens." Cabeliau, in his elaborate report of the expedition of 1597-98 (submitted February 3, 1599), mentions having met the Sphera Mundi on the Guayana coast, but as Prof. Burr has well pointed out, if there was ever any separate

¹ Trade to Guinea, in Africa, had been going on since 1593; and subsequently the trade route to Peru and Brazil was by way of the African coast.

² i. e. The Netherlands.

Moreover, the notion

account of this Cornelisz voyage, it does not appear of record in the Hague archives.

Professor Jameson's Opinion.

that the Dutch had any kind of establishments in the Essequibo at this time is, as Professor Jameson remarks, "plainly refuted by the narrative of A. Cabeliau." Professor Jam-

eson adds:

" Not only does it seem certain that if there had "been Dutch settlements in that river he [Cabelaiu] "would have known of and visited them, but he "distinctly declares, in his report to the States-Gen-"eral (De Jonge, Vol. 1, p. 160), that in his voyage " along this coast he and his companions had dis-"covered, found, and visited more than twenty-four "rivers, many islands in the rivers, and other various "harbors, 'which have not been known or visited "by our nation, and, what is more, have not been "described or discovered in any charts or cosmog-"raphies before the time of our vovage' ('die nvet "by dese landen en zyn bekent nog beseylt geweest, " ja dat meer is, in geene quaerten oft cosmographen " voerdato onse voyage bescreven nock ontdekt zijn "geworden'). Moreover, the conscientious De Jonge "found no evidence in the Dutch archives of settle-

"ment prior to the seventeenth century."

Professor Burr, in his First Dutch Voyage to Guayana. ton Commission, speaking of this voyage (1597-8, reported by Cabelaiu in 1599), says: "there is every reason to believe this actually the earliest Dutch voyage to the Guayana coast." That it was believed so by the expedition itself is, as he points out, clear from the very terms of Cabelaiu's report. Furthermore, from the official proceedings of November 3, 1599, it is manifestly improbable that, under the policy of the States-

Rep. and Docs. Wash'n Com., Vol. I., pp. 60-61.

Dutch Arch..
Wash'n Com..
Vol. II., p. 13,
Note.

Rep. and Docs. Wash'n Com., II, p. 22. Note by Prof. Burr. General, any earlier voyage to Guayana, made with their approval, escaped notice in the Records by reason of its possible secret destination.

Dutch Arch., Wash'n Com., II., pp. 23-24.

In November 1599, as appears from the official proceedings of the provincial estates of Zeeland, Adriaen ten Haeft, Burgomaster of Middelburg (who seems to have been in some way connected with the voyage of 1598),1 petitioned for certain privileges on the ground "that in the "preceding year 1598, at heavy cost" "to himself, he had "caused to be in-"vestigated on the continent of America "many different rivers and islands and . . " various coasts and lands where one could " do notable damage to the King of Spain," etc.; statements which clearly imply that the Spaniards then were, and that the Dutch then were not, established on the coast and rivers of Guavana.

Dutch Arch., Wash'n Com., II., pp. 25-26. It likewise appears from the official proceedings of the States-General relative to certain exemptions from convoy fees—provisionally granted, in 1602, to Jehan van Peenen and Garrit Diriexz, and subsequently awarded to them in 1604—that the Dutch not only had no settlements in Guayana, but were prevented from sailing and trading up the Orinoco river "by the "multitude of the Spaniards whom they "found there."

Dutch Arch., Wash'n Comm., II., pp. 27-37. It is equally manifest from the Memorial of 1603, addressed to the States-General by William Usselinx (the originator of the

¹ Reported by Cabelaiu, vide supra.

first Dutch West India Company), that there were then no Dutch settlements anywhere in Guayana; for the memorialist points out that,

"on the aforosaid coasts of America [i. e., the "Guayana and Brazilian coasts] no riches can be "drawn from the mines, and no profit earned from "the fertility of the soil, unless the land be first col-"onized."

And again, he urges

"the convenience of that province's situation, if at "any future time you [the States-General] were to "resolve, in imitation of the Romans, to divert this "protracted war from the home country and transfer "it thither."

It was however resolved, February 25, 1603, that "as to the requested coloniza-"tion of Guiana" the States-General could not "for the present take action in the matter." And so the project seems to have rested during the eighteen years prior to the formation of the first Dutch West India Company in 1621.

Meantime, during this interim, the Spaniards certainly dominated the Northwest Coast Region of Guayana, as appears from a relation by Fray Pedro Simón. For it was in 1619, or thereabouts, that Gerónimo de Grados of the Spanish colonial service, went into "the Baruma and compelled the Arwaccas to obedience." Now it is well known that the Arwaccas inhabited the region of the Pumaron, while the Caribs inhabited the region of the Barima; and Professor Burr shows conclusively, from the etymology of the word, that the "Ba-

Ib. p. 29.

Ib. p. 32.

Ib. p. 36.

"Noticias Historiales" &c., p. 664.

The armed conflict with Spain had now been going on for a quarter of a century.

Ib. Id. C. xxx.

ruma" of Fray Pedro Simón is none other than the Pumaron of modern cartographers. The Gerónimo expedition went all the way to the Essequibo, without once encountering any Dutchmen, or even hearing of any.

That, up to January 25, 1621, there were no Dutch settlements anywhere in Guayana, much less in what is now the disputed territories, is manifest from the memorial of that date addressed to the Prince of Orange by Cornelis Janssen Vianen, wherein it is stated that,

Dutch Arch., Docs. Wash'n Com., II., 37-38. "our Netherlands have as yet attained little by "peaceful trade" in "the deverse products and "fruits found or raised on the mainland of [South] "America"; and that "if an attempt were made with superior force to gain the land there, and by "such cultivation introduce the products of Brazil "and the West Indies, the Spaniards would beyond doubt seek forcibly to prevent this."

Not only had the Dutch, up to this date (1621), made no attempt to establish settlements anywhere in Guayana, but they had no established trade there. Their vessels had visited some parts of the coast, and had occasionally traded in the mouths of some of the rivers; but there is no evidence that they attempted anything more. Their trading vessels were mere ocean "tramps," with no regular itinerary, no established trading stations, certainly none in what is now the disputed territories.

Rodway & W. Annals, I., p. 91.

 $^{^{\}rm I}$ See Rep. to Washington Commission, Docs. Vol. I., 214, 258, Note.

The Hague Records show The Dutch in the Esseguibo. that November 26, 1626, is the earliest mention of any Dutch establishment on the Essequibo. It is certain there were no Dutch settlements there prior to the year 1624. As Professor Burr has pointed out, all assertions that the Dutch were established there prior to the foundation of the first Dutch West India Company in 1621, rest ultimately upon two documents alone, and the evidence derived from these is not only inferential but very conflicting. It is not only wholly unsupported by well authenticated contemporaneous documents, but is in direct and irreconcilable conflict with them.

The longer of these two documents (and the one principally relied upon to support the British contention) is the *Memorial* of *August 23, 1751*, submitted to the States-General by the Directors of the Zeeland Chamber in defense of their claim to the Essequibo Colony. The other is known as the "Sloane Manuscript," in the British Museum, first published in July, 1879, the authorship of which has been traced to Captain John Scott, the same who, as a fugitive from North America, led the expedition of 1665–6 which raided the Dutch settlements in Guayana.

With regard to the first named, its aim was thoroughly partizan and its conclusions obviously erroneous. The shadowy claim, first put forth in 1750, that the Essequibo Colony was in existence and in the hands of the Zeelanders "before, or at the time"

Docs. Wash'n Com., I., p. 179.

Ib. Id. I., pp. 166-7

Th Id

Ib. Id. p. 166, Note.

of the foundation of the Dutch West India Company in 1621, is cautiously reasserted. But the only document cited in support of this claim is an "account book" of 1627, which, Professor Burr says, proves nothing of the kind.

Dutch. Arch., Docs. Wash'n Com, II., p. 23. In further support of their claim, the Memorialists cite the uncertain project of Adrien ten Heft, in 1599, and adroitly seek to bring into close connection with him a list of later Zeeland colonizers; very prudently omitting to state, however, that the earliest of the Zeeland colonizers did not begin operations till the year 1626. They likewise omit to mention that the very names which they seek to connect with ten Heft, were taken bodily from an old record book of the Company covering a period of forty-five years subsequent to the year 1626.

Docs. Wash'n Com., I., p. 167.

> Further on, the Memorialists admit that they do not know when or by whom the Essequibo Colony was founded, but think it "more than probable" that the Essequibo was first visited and colonized by Zeelanders, and that the founder was "a certain Joost van der Hooge, who thereafter was also the first director of the Zeeland Chamber." And, from this assumption of probability, they infer that the Essequibo Colony must have been in existence "several years before the creation of the West India Company"; or if not before, then "at the time of the foundation of that Company." And then, as if painfully conscious of the inherent weakness of such a line of argu-

Ib. Id. pp. 168-9.

ment, the Memorialists point out that "not the slightest evidence can be produced" that the Essequibo Colony "was traded to by the Hollanders," or by "other inhabitants of the State" than Zeelanders "before or at the time" of the foundation of the Dutch West India Company in 1621!

Upon such methods of ratiocination as this rests the British assumption that the Dutch were settled in the Essequibo earlier than 1624! Manifestly, so far from strengthening their claim, this very Memorial itself is, when read between the lines, nothing more than an open confession that there is absolutely no proof in support of such a pretension.

With respect to the "Sloane Manuscript" little needs to be said. "Its reception by historians," says Professor Burr. "has not been flattering, and the name of its author will hardly add greatly to its weight, for Scott's reputation for accuracy of statement is not unimpeached." His statement, for instance, as to the founding of the Essequibo Colony in 1616, by "Captain Gromwegle," is without the slightest foundation; and his additional statement that this "Gromwegle" built a fort there during that year is confronted by the known fact, as shown in the Dutch archives, that there was no fort there at all as late as 1627. Moreover, the records of the Zeeland admiralty, complete from 1613 to 1621, inclusive, contain no such name as "Gromwegle."

Ib. Id. p. 70.

Docs. Wash'n Com. I., p. 175. Note.

Ib. Id. I., p. 64.

Blue Book, p. 5.

The Dutch West The British contention India Comis that the charter of the pany. West India Company, "reaffirmed in 1637, gave the Orinoco as the limit of the Company's territorial jurisdiction."

This statement is absolutely without foundation or justification.

Docs. Wash'n Com., I., pp. 177-8.

Ib. Id.

Dutch Arch., Docs. Wash'n Com., II., pp. 38–39, I., p. 178.

Ib. Id. I, p. 102.

The first Dutch West India Company received its charter on the 3d of June. 1621, but did not begin operations till some months later. The Zeeland shareholders did not meet to choose directors till late in May, 1623. The Supreme Board of the Nineteen did not hold their first meeting till August 3, 1623; and the records of that meeting make no mention of Dutch settlements anywhere in Guavana. It was not till the 10th of September. 1624, that the Zeeland deputies were requested to bring "instructions given to "ships bound for the Amazons," and "in-"formation as to the condition of things in "that quarter." There is not a word about the Orinoco nor other place in the disputed territory.

The charter of the Company was for 24 years. At the expiration of that time, it. was renewed for another 24 years. But before the second 24 years had expired, the Company was already hopelessly bankrupt. An entirely new Company was then organized which took over the assets of the old one, but no mention is made of the Orinoco as a limit of jurisdiction.

The Company was a belligerent corporation, formed at the close of the twelve years' truce in the long war between Spain and her revolted Dutch provinces. Its charter did not even purport to be a grant of lands. It was in effect, what indeed it purported to be, a mere license to go out into the world and, within certain limits named, to capture, occupy, steal, or other wise appropriate any unsettled territory that might be available. Colonization was not, however, its primary object. Its professed object was "trade"; its real object was to annoy and plunder the Spanish-American settlements. The main expectation of profit to the shareholders was from privateering-from plundering Spanish merchant ships-and it is of record that on one single occasion, in 1628, the booty thus obtained amounted in value to eighty fold more than all the "trade" during the whole period of the prior existence of the Company.

The territorial limits of Territorial Limits of the the Company were specified Company,

in Article I. of its charter. All Hollanders outside the Company were prohibited from travel and trade "to the "coasts and lands of Africa, from the "Tropic of Cancer to the Cape of Good "Hope, or, furthermore, to the lands of "America, beginning from the south end of "Newfoundland through the straits of " Magellan, Le Maire, or other straits and "passages lying thereabout, to the straits "of An Jan" [i. e., to Bering Strait]. "whether to the North Sea, or to the South "Sea, or to any of the islands on the one "side or on the other or lying between the

Bancroft, Hist, U. S., II., p. 37.

Docs. Wash'n Com., I., pp. 100-1 Note, loc. cit. "two; or, moreover, to the Australian "and Southern lands, stretching and lying between the meridians of the Cape of "Good Hope on the east, and on the west end of New Guinea [in Africa], inclusive."

There is not a word about either the Orinoco or the Essequibo. In general terms, the charter included the whole American coast from Newfoundland around to In the language of a Bering Strait. sympathetic but impartial historian "it was an absurd attempt to blockade half the globe with a few galleots at a time when every harbor and position of advantage was commanded by the Spanish, French and English"; when the whole of South America, from Cape Horn to the Isthmus was already held by the Spaniards and Portuguese; and "when the Dutch were scarcely able to defend, inch by inch, the meagre little sand banks and marshes of the fatherland."

Neither by the edict of June 9, 1621, nor by that of June 10, 1622, nor by that of November 26, 1622, were these limits modified or changed. On February 13, 1623, the charter was slightly amplified; but without change of limits. Nor was there any change of limits either by the prohibition of May 24, 1624, or by the proclamation of October 13, 1629. In 1645 the charter expired without change of limits. It was not renewed till March 20, 1647, and then without change of limits.

In 1671, when the charter again expired it was thrice renewed for eight months at

Motley, Hist. United Netherlands, IV., pp. 298-388.

Does. Wash'n Com I., pp. 101-2, loc. cit.

Ib. Id. p. 102.

1b. Id.

a time; but each time without change of limits. And the final charter of 1674 granted nothing to the new Company formed by it except "the places of Essequibo and Pumaron." There was nothing else on the American mainland to grant. The Orinoco does not figure therein even as a trade limit.

Ib. Id. p. 109.

After a most patient and thorough study of the legislation of the States-General, as shown by the Hague records, together with the archives of the Company and other contemporaneous documents, Professor Burr arrives at the following general conclusions, viz:

Docs. Wash'n Com., I., p. 110.

- 1. "That neither in any charter of the Dutch "West India Company, nor in any 'reaffirmation' "or extension of any charter, is there mention of the "Orinozo as a limit."
- 2. "That in none of the published legislation on behalf of that Company is the Orinoco made a boundary of territorial right, possession, or jurisdiction."
- 4. "That its second and final charter of 1674 "seems to exclude the Orinoco from the territorial "possessions of the Company."

The charter granted a monopoly of trade over all the coast of America. All existing Dutch establishments therein passed at once into the hands of the Company; and the original founders and proprietors would naturally have a claim against the Company for reimbursement. But the only such claim which finds mention in the official records is the one made by the Zeelanders for their "tobacco plantation on the Amazon." Of other establishments on the South American coast nothing whatever

Ib. Id. I., p. 177.

Ib. Id. I., p. 48. Note. is heard, and the natural inference is there were none.

Origin of the Essequibo Settlement. It is a practical certainty then that prior to the year 1624, there were no Dutch establishments in the Essequibo, and it is equally certain that Jan van der Goes was at the head of the first Dutch occupation of that river in 1625. The earliest mention, in the extant records, of any Dutch establishment there is November 26, 1626, and this accords perfectly with DeLaet's account.

This "establishment" was a mere trading post of the Dutch West India Company, situated on a little island at the confluence of the Cuyuni and Mazaruni rivers, and therefore in the region of tide-water. It occupied the site of a former Spanish fort (El Burgo), the name of which the Dutch changed to Kyk-over-al. Up to 1627 it was still a mere trading station of the Company, kept up for traffic with the Indians, and had never paid expenses.

In 1632, the Supreme Board of the Nineteen decided to abandon it; the dozen or so employees of the Company, with van der Goes at their head, having already returned home. But the Zeeland Chamber voted to keep it up a little longer. In 1637, its projected abandonment was again discussed; but about that time the Company received a consignment from Essequibo of "two kegs of cane juice," and as this was the first intimation of agricultural products there, it probably saved it from final abandonment. It is not unlikely, however,

Docs. Wash'n Com., I., pp. 180, 181-2. Ib. Id. p. 179, II., p. 42.

Nieuwe Wereldt, 1625 ed., pp. 474-480, 1630 ed., pp. 577-583.

Docs. Wash'n Com., Vol. I., pp. 184-186. *Ib. Id.* Vol. II., pp. 47-55, Note.

Ib. Id. Vol. I., p. 186.

Ib. Id. Vol. II., pp. 65-75.

that an apprehended attack on the place by the Spaniards of the Orinoco had something to do with this second exodus, and that the proposed evacuation was deferred when these rumors proved ill-founded.

Up to June 30, 1642, as shown by the Company's records of that time, the so-called "Essequibo Colony" did not exceed thirty souls, and these were all unmarried men, employés and servants of the Company, whose sole business was to collect dyes from the Indians.

It remained about the same up to the treaty of peace in 1648, when it was a body of "two or three dozen unmarried em-"ployés of the West India Company, "housed in a fort at the confluence of the "Cuvuni and Mazaruni with the Esse-"quibo, and engaged in traffic with the "Indians for dyes of the forest." There was no other Dutch establishment anywhere on the Essequibo; and as this one was merely a commercial or trading post of the West India Company, with no agricultural enterprises or interests, it can hardly be called a "colony." Up to 1648 there had been no further exports of samples "cane juice" or tobacco; and the first sugar mill was not established till sixteen years later, in 1664. Nor was there, even up to 1664, any provision for the registry of lands.

It is certain that prior to the year 1648, the Dutch occupied no portion of the rivers Cuyuni and Mazaruni above the lower or first falls; and it is equally certain that Ib. Id. II., 72-76.

Ib. Id. I., 190; II. 100-102.

Ib. Id. Vol. I., p. 192, Note.

Ib. Id., pp. 192 93.

Docs. Wash'n Com., II., 127-128, I. p. 214, loc. eit. up to that date they had no trading "posts," settlements, or "establishments" of any kind anywhere on the coast west of the Essequibo delta.

It appears then, from the foregoing summary of well authenticated historical facts:

- 1. That each of the three well defined Tracts, comprising the territories now in dispute, were first discovered, taken into possession, named, explored, and subsequently first used and occupied, either as a whole or as parts in the name of the whole, by Spanish subjects, duly authorized thereto by the Spanish Government.
- 2. That for fully a century and a quarter after this, the Kingdom of Spain successfully held these three Tracts of territory against all second comers, and persistently asserted and maintained their claim to dominion and jurisdiction over each as a whole.
- 3. That the first adverse holding by the Dutch, in what is now the disputed territory, was by a belligerent corporation in time of active hostilities during the war between Spain and Holland; and that their adverse holding did not commence prior to the year 1624.
- 4. That this Dutch occupancy was limited to a single place or establishment, of a purely commercial character, near the junction of the Cuyuni-Mazaruni with the Essequibo; and that at the time of the Treaty of Münster, 1648, it had not extended westward beyond the first falls in either the three rivers named, nor west-

ward on the coast beyond the Essequibo delta.

Next in order, it remains to be shown first, what territorial rights, if any, within either the three Tracts named, were, by that Treaty, confirmed to Holland by Spain; and, second, what was the extent and character of any additional territorial rights, which the Dutch may have subsequently acquired, and held at the time of the cession of 1814.

PART III.

PERIOD FROM 1648 TO 1814.

By the treaty of Münster.

By the treaty of Münster, signed January 30, 1648, the long war between Spain and her revolted Dutch Provinces was brought to a close. Spain formally recognized the independence of those Provinces (then styled the States-General), and confirmed them in the possession of

Tr. of Munster,

"such lordships, cities, castles, fortresses, commerce "and countries in the East and West Indies, as also "in Brazil and on the coasts of Asia, Africa and "America, respectively," as they then held and possessed.

The cession comprehended also

Ib. Id.

"the places which the Portuguese have taken from "the Lords, the States, since the year 1641; as also "the places which the said Lords, the States, shall "chance to conquer and possess after this, without "infraction of the present treaty."

And the kindred clause in the next succeeding Article of the Treaty prescribes that

Ib. Art. VI.

"among the places held by the said Lords, the "States, shall be comprehended the places in Brazil" which the Portuguese took out of the hands of the

"States, and have been in possession of ever since "the year 1641: as also the other places which they "possess at present, so long as they shall continue in "the hands of the Portuguese, anything contained in the preceding Article notwithstanding."

It seems almost incredible that any question should arise as to the obvious meaning of these clauses. None was ever raised between the parties themselves; nor by others till after the lapse of nearly two and a half centuries.

That these clauses confirmed the Dutch in all the possessions which they had acquired in Guayana up to the date of the Treaty, is, of course, beyond dispute. That they also contain a quitclaim by Spain in favor of the Dutch to such places in Brazil as were then held by the Portuguese, is equally obvious. But the contention, now made by Great Britain, that these clauses licensed the Dutch to make fresh conquests or acquisitions in territory claimed by Spain but occupied by aborigines, is certainly novel, if not monstrous. Such a construction violates every known rule of legal interpretation, and involves the absurdity of a treaty of peace in open conflict with its own declared purpose. A brief analysis of the clauses in question, taken in connection with the history of their negotiation, will make this manifest.

The original official text of the Treaty is in the French and Dutch languages, the two alternate versions being of equal authority. The particular clause in question is in Article V., and is as follows:

Blue Book 1, pp. 6-7-

Docs. Wash'n Com., I., p. 74. Note. lieux et places qu'iceux Seigneurs Estats ci après sans infraction du present Traité viendront à conquérir et posseder * *

* * compris aussi les | * * of de plaetsen die sy hier naemaels sonder infractie van't jegenwoordigh Tractaet sullen komen te verkrigen en te besitten 1 * *

Here we have the French terms "lieux" and "places," and the Dutch word "placetsen," corresponding wholly to our cognate English word "places." The French word "place" might in certain contexts mean a fortress ["place forte"]; but, as Professor Burr has pointed out, its equivalent, "plaetsen," in the Dutch version, makes that quite impossible in the present case. Hence the correct English translation is "places" alone, and not, as in the British Blue Book, "forts and places." In either case, however, they clearly denote fixed localities-towns or settlementsand not stretches of country. And this, as we shall see further on, is clearly the sense in which the words were employed in the negotiations leading to the Treaty.

Ib. Id. pp. 75 et seq.

Again, the French words "conquérir et posseder" cannot be translated "acquire and possess." "Posseder" finds a true and adequate equivalent in the English word "possess"; but the equivalent of "conquerir" is "conquer," not "acquire." And so, too, of the Dutch phrase "verk-

Docs, Wash'n Com., I., p. 75, Note.

I The official text of the Treaty, from which these extracts are taken, was printed, by order of the States-General, at the Hague in 1648. A copy is in the library of the State Department at Washington. Professor Burr, of the Washington Commission, says he has examined, in the Dutch archives "the sumptuous official original" of the Treaty, both in its French and in its Dutch text, and that he "can certify that the cardinal phrases" in question "stand in the manuscript precisely as in the printed editions."

rigen en besitten." The English equivalent of the word "verkrigen," as used two and a half centuries ago, is certainly not "acquire," but "conquer"; and, taken as a whole, the phrase clearly implies seizure from another State, not an occupation of lands held only by aborigines.

Furthermore, the only "places" suggested by the negotiations which led to this clause in the Treaty, are those to be won back from the Portuguese in Brazil. other American possession is once mentioned. It was on the Dutch hostility to the Portuguese, occasioned by the loss of Brazil, and on the well known wish of the Dutch to regain their holdings there, that Spain relied for bringing the Netherlands to favorable terms. The Dutch feared that, in case of emergency, the Portuguese might hand over these recently captured Brazilian places to France, or to some other ally, and it was of vital importance to the West India Company to regain possession of them, no matter who might hold them. On the other hand, Spain had little hope of ever being able to reclaim the allegiance of the Portuguese, and still less of being able to regain her ancient possessions in Brazil, then held by them. Hence her readiness to make, and the readiness of the Dutch to accept, a quitclaim to those possessions in compensation for more immediate and tangible advantages.

In short, a careful study of the history of the negotiations, discloses that the clause in question came originally

Ib. Id. loc. cit.

Ib. pp. 78-90, loc.

Ib. p. 93 et seg.

Ib. pp. 94-96.

from the West India Company; that it was accepted by the Spanish envoys precisely as submitted, except their very significant substitution of the word "conquerir" for "acquerir"; and that in the minds of its authors, the clause had reference only to possessions of the Portuguese.

And these conclusions are abundantly sustained by the subsequent history of the diplomatic relations between the two countries; for it therein nowhere appears that the clause in question was ever otherwise interpreted by either Spain or Holland. Thus, as appears from their diplomatic correspondence as late as 1786, both understood the Treaty as restricting Spain in her limits in the East Indies, to the places she then held; and as likewise restricting the Dutch in their limits in the West Indies and on the American continent, to the places then held by them; but as giving the Dutch a free hand to conquer what they could from the Portuguese in Brazil.

And how else can we account for certain statements in the Treaty of Aranjuez, of June 23, 1791? That was a treaty made by Spain and Holland for the mutual restitution of fugitives, and its principal clause specifies, in couples, the colonies of the one and the other between which the restitution should take place, namely,

Now it is manifest, even under the British

[&]quot;between Puerto Rico and San Eustaquio, Coro "and Curacão, and all the Spanish establishments in "the Orinoco and Essequibo, Demarary, Berbice and "Surinam."

construction of this clause 1 that it is tantamount to a positive affirmation that the Orinoco, from the coast upward, including of course its mouths and estuaries, was within the domain and jurisdiction of Spain. And as Spain had neither made nor received any concession of territorial rights in that quarter since 1648, the necessary implication is that it had never been other than a Spanish possession. In other words, since by the Treaty of Münster, the Dutch were limited in their territorial rights in Guavana to the "places" they then materially occupied: and since the only place they then held on the Essequibo was the little settlement, or trading station, at Kyk-over-al; since they then held nothing on the coast west of the Essequibo mouths; and since the treaty of Münster was still in force at the date of this compact, it is manifest that the Esse-

I The official text of this clause of the Treaty is as follows: " Art. I. Se establece la restitución reciproca de las fugiti-

[&]quot; vos blancos ó negros entre todas las posesiones españoles " en América y las colonias holandes, particularmente entre

[&]quot; aquellos en que las quejas de deserción han sido mas fre-

[&]quot;quentes, á saber, entre Puerto Rico y San Eustaquio, Coro "y Curação, los establecimientos españoles en el Orinoco y

[&]quot; Esseguibo, Demerary, Berbice y Surinam."

Its exact equivalent in English is as follows:

[&]quot;The reciprocal restitution of fugitives, white or black, is "[hereby] established between all the Spanish possessions

[&]quot;in America and the Dutch colonies, particularly between "those in which complaints of desertion have been most fre-

[&]quot;quent, to wit, between Puerto Rico and San Eustaquio,

[&]quot; Coro and Curação, the Spanish establishments in the Orin-" oco [on the one hand] and [on the other] Essequibo and

[&]quot; Demerary, Berbice and Surinam."

If read without the words in brackets, which are not in the Treaty, this might very naturally mean that the establishments on the Essequibo were Spanish. But as the British have insisted that it must be read as above indicated, let us so assume. Read in this sense, then, the obvious meaning is that, as Puerto Rico is Spanish and San Eustaquio Dutch, as Coro is Spanish and Curação Dutch, so are Spanish all the Orinoco establishments up to the Essequibo.

quibo line was still the recognized de jure boundary between the two countries, any aggressions or attempted occupation by the then defunct West India Company to the contrary notwithstanding.¹

Occupation by If, however, we would the Dutch disregard the manifest imsubsequent to 1648. port of Articles V. and VIof the Treaty of Münster: if we would disregard the patent fact that the Dutch did, by the terms of that Treaty, accept as a limit of their territorial rights in Guayana what they then materially occupied; if we would disregard all subsequent negotiations and treaties which, by fair construction, fixed the Essequibo line as the de jure boundary; if we would admit the claim now put forth that the Dutch subsequently extended their material occupation beyond that line, and thus acquired title by prescription to additional territory, then we shall have to deal with the next question, namely:

What boundary is established by such subsequent occupation by the Dutch or English?

For, of necessity, there is a boundary somewhere between the present claimants. Both cannot be sovereign over the same territory; nor is there any region between them which a stranger may now occupy as

Does. Wash'n Com. IX., Brief 1. p. 21.

This interpretation of Article I., in the extradition Treaty is natural and legitimate. But, under the most adverse construction, it is plainly a statement by the parties that the Essequibo is, and that the Orinoco is not, Dutch; and inasmuch as it is a statement in a Treaty, this makes them so. Therefore, as pointed out before the Washington Commission, it is legally impossible for either Holland or its successor, in the face of that Treaty, to claim that the controlling shore of the main mouth of the Orinoco was then Dutch.

terra nullius. Both parties assume this position; each claims to the whole of the disputed territory. The sole question then is, Which of the two owns the land, all of which belongs to one or the other, or to each in separate parts?

But if we are to search for a boundary which is not defined by deed or treaty or other express agreement, but which rests exclusively on rights growing out of the acts of the parties, we must first ascertain the nature and character of those acts, and then endeavor to draw therefrom the legal conclusions applicable to the case.

First, then, as to the acts of the parties. And these should be considered in relation to the topography of the country; for, in searching for a boundary defined only by acts, the topography of the country becomes a matter of controlling importance; such, for instance, as well-defined water-partings of considerable length; continuous mountain ranges more or less steep and difficult to overpass; comparative elevations of distinctly marked regions or tracts; and natural barriers, such as are shown by history to have impeded or prevented settlement from a particular side.

And if, in our investigation, it shall appear that all the settlements of the one nation are on one side only of these natural barriers, and all the settlements of the other nation on the other side; or that one of the nations excluded the other from its own side of the line; or that one expelled the few subjects of the other who crossed it; or if one of the nations otherwise exercised,

Supra, Part I.

habitually and continuously, unequivocal acts of sovereignty and dominion over the region from its own side of the natural demarcation, then in either of the cases named, the rightful boundary between them becomes a question of easy solution.

It has been pointed out already that the territories in dispute are all comprised within three well defined tracts, each complete in itself, and each plainly marked by natural monuments of rivers, mountains, and water-partings. We now propose to show, from official documents, and from standard histories, that while the Dutch may have extended occupation into a part of one of these three tracts, they never gained a foothold in either of the other two; that whenever they attempted to cross over into either. they were expelled by the Spaniards, who habitually and continuously exercised unequivocal acts of dominion and sovereignty in both.

It will hardly be denied that for fully a whole decade after the date of the Treaty of Münster, "the westermost Dutch occupation" in Guayana was fort Kyk-over-al, at the Cuyuni-Mazaruni junction, near the left bank of the Essequibo. And even that was not, in any legal sense, a "colony" with outlying territory. It was merely "a body of two or three dozen unmarried "employés of the West India Company, "housed in a fort," and "engaged in traffic "with the Indians for the dyes of the for-"est." It had never been spoken of as a "colony," but always as "the establishment

Supra, Part I., pp 11 to 26.

Docs. Wash'n Com., Vol. I., pp. 191, 192, 193, and Notes, loc. cit.

Ib. Id.

in Essequibo." And this purely commercial character of the place is the more remarkable because the other Dutch establishments east of the Essequibo, whether those of the "patrons" or those planted directly by the Company, had all been of actual settlers.

Up to the year 1657, there had been no change in this status. Annatto dve, collected and brought in by the forest Indians, was still "the only product of the Essequibo." In 1655, when the recovery of Brazil had become hopeless (and the West India Company practically bankrupt in consequence), the Zeeland Chamber proposed to throw open the "Wild Coast" to free colonization. But settlers were not invited there till 1656: and it was not till late in the year 1657 that the first "colonists" arrived "in the Essequibo," These consisted of but "twelve persons" in all, "some with and some without family, wife, children and slaves."

Just where, "in the Essequibo," this little handful of colonists settled, the records do not say; but the almost necessary inference is that they all found homes near Fort Kyk-over-al, since there was no other settlement in that river till later on.

Netscher, the Dutch historian, tells us (what indeed we now know from other sources) that "the Registers of the resolu-"tions of the Zeeland Chamber are found "in the Ryks Archief, almost complete, "from 1626 to 1791, except from 1646

Ib. Id. pp. 192, 193.

Ib. Id. pp. 191-196.Vol. II., pp. 110-113 et sequens.

Ib. Id.

Netscher, Geschiedenis, C. III.

¹There were none west of the Essequibo.

Parl. Papers, XXXIV., p. 226.

Br. Blue Book (Supp.) 1896, pp. 88-90-117.

Does. Wash'n Com., II., 309, "to 1657, which are lacking;" and he adds that all these have been "thoroughly searched" by the English Government "with reference to the boundary question." That Government have also, it is understood, a large collection of their own. which they took over with the Colony in 1814; but which it seems contains nothing in support of their present claim. For we have Governor Light's official declaration, made in 1839, in response to a direct question, that "there are no documents in "the archives of the Colony respecting the "western or southern limits of British "Guiana.1 We have likewise the Dutch Governor Gravesande's official statement. made ninety-two years before (1747-8) that he could find no papers in the archives of the Dutch West India Company to fix the boundary of the Essequibo Colony: and that if the boundary had not been fixed

I Here is an exact copy of that part of Governor Light's official despatch referred to:

No. 111.) -No. 4.-

EXTRACT of a DESPATCH from Governor *Light* to the Marquess of *Normandy*, dated Governor's Residence Demerara, 15 July, 1839.

Mr. SCHOMBURGK, employed by the Geographical Society to obtain information in the interior of British Guiana, and adjoining countries, who has lately arrived at Georgetown, having furnished me with the annexed memoir and map, I am enabled to reply to your Lordship's despatch, No. 11, dated 12 March, and to that of your Lordship's predecessor, No. 74, dated 1 December, 1838. I shall observe, there are no documents in the archives of the colony respecting the western or southern limits of British Guiana, the memoir of Mr. Schomburgk is therefore valuable; it confirms the opinions of the superintendent of Essequibo, as to the western limits, and points out what may be fit subjects for discussion with the different governments whose territories border on British Guiana. The Brazilian government is on the alert to extend the limits of the empire; the Columbian government is desirous of ascertaining theirs.

by the Treaty of Münster (in Articles V. and VI.), he did not know where it was.

These significant admissions coupled with what we now know of those records and of the documents reproduced in the Blue Books, raise a very pertinent legal presumption, and justify an important conclusion. If little or nothing relating to this period, or to the western boundary of the Essequibo settlement, has been reproduced in the Blue Books, it is fair to assume that it is because, and only because. nothing is found of record which can help the English case. "It is certainly a maxim," says Lord Mansfield, the greatest of English jurists, "that the evidence is to be "weighed according to the proofs which it "was in the power of one side to have "produced, and in the power of the other "to have contradicted." And of the failure of a party to call witnesses within his control, the Supreme Court of the United States have held that "it is to be presumed "they knew nothing which would tend to "substantiate its claim."

Morever, we now know, from the Dutch Archives reproduced by the Washington Commission, not to mention the concurrent testimony of all standard historians, that this "Essequibo Colony" was from the very beginning a weakly and moribund affair. It never attained success, and never had occasion to extend its area of occupation. Before it was a year old the Zeeland Chamber shrank from its management. Finally, in 1657, after much persuasion, the three Walcheren cities of Middelburg,

Cowper, 65.

144 U. S. Reps. 154-165.

Docs. Wash'n Com., Vol. II.

Docs. Wash'n Com., I., pp. 194. 195, loc. cit.; II. pp. 121-125, 126-178 et seq. 1b. Id.Rodway, Hist.Guayana, I., p. 3;Annals, I., pp.133, 186, 205.

Flushing and Vere took it over and changed its name to "Nova Zeelandia"—an appellation which seems to have been indiscriminately applied to all the Dutch settlements of that time.

Docs. Wash'n Com., I., pp. 346-347-352-353.

At no time did this Colony extend up either of the three rivers beyond the marine tides. Indeed, it never extended above fort Kyk-over-al till the eighteenth century. and then only up to the foot of the first or lower Cataracts in the Cuyuni. Mining in that river was attempted by the Dutch in 1741-3; but their farthest operations was less than "two days journey" in canoes from the Essequibo. These were soon abandoned, and were never resumed. Thrice for brief periods, during the eighteenth century, the Dutch attempted to establish outposts or trading stations in the Cuvuni basin: but each of these was temporary, and had been shifted from place to place. By 1772, every one of them had disappeared. And five years latter, in 1777, there was but one plantation anywhere above Flag Island, in the Essequibo delta. There was not so much as a Dutch mining camp, trading post, or other temporary abode anywhere within the outer rim of the great Interior Basin of the Cuyuni-Mazaruni, nor in the Northwest Coast Region west of the Moroco.

Ib. Id. p. 201.

Prior to 1658, there had been no effort to extend the Colony westward on the coast. In that year, the three Walcheren cities, which had reluctantly undertaken the management of the Colony, appointed one Cornelis Goliat to survey the coast

Ib. Id. p. 214.
Note.

region between the Essequibo and the Ib. Id. p. 215. Pumaron. He made a chart according to which there was to be built, on the Pumaron near its mouth, a town which should be called "Nieuw Middelburg," Above this, on the river, was to be a fortress which should bear the name of "Nova Zeelandia." Below the proposed town, at the mouth of the river, it was proposed to build a fortified Look-out to be known as the "Huis der Hoogte."

But this was nothing more than a scheme on paper. Neither the town nor fortress nor "Huis der Hoogte" ever approached completion. Indeed, it is extremely doubtful whether either were ever really commenced; for the Colony itself lived less than half a dozen years. In the winter of 1665-6, Major John Scott, at the head of an English expedition, after destroying the little settlement of Kykover-al, swooped down on the Pumaron, leaving the new settlement there in ruins. The destruction was thorough and complete. "The settlers were scattered to the forewinds," not one of them ever returned.

"But though destroyed from the face " of the earth," says Professor Burr, "Nova "Zeelandia" continued to live on paper. "For, even before the Colony's ruin, the "chart of Goliat fell into the hands of his "enterprising townsman, Arend Rog-"geveen, the Middelburg geographer; "and when, latter on, that map-maker "brought out his fine Atlas of these coasts, "' Nieuw Middelburg,' with its fortress and "its 'Huis der Hoogte' took a handsome

Ib. Id. 215. Note.

Ib. Id. 216. Notes.

Ib. Id. 217-218. Note.

"place on the map, which it did not lose till almost our own day."

Roggeveen's map was copied, as to these sites, by Hartsinck and others, who, in turn, had their copyists and imitators; and so on, down to only a few years ago, when it was discovered that no such places as "Nieuw Middelburg," "Nova Zeelandia," and the "Huis der Hoogte," ever really existed! Nevertheless, these "places" were persistently claimed by the West India Company.

Blue Book 1896, pp. 7-8.

Ib. Id. pp. 217-218. Note.

> In 1669, the Company granted to the Count of Hanau a strip of land which the British Blue Book quotes as granting "from "their territory in Guayana, situated be-"tween the river Orinoco and the river "Amazons." The claim is that "this grant "was made in the most open and public-"manner"; that it "was printed at Frank-"fort in the same year"; and that "it was-"not protested against by Spain at any "time." The assumption is that Spain had knowledge of this grant and was silent about it; and, from this assumption, we are asked to infer Spain's acquiescence in the alleged claim by the West India Company to all the territory between the Amazon and the Orinoco.

> In the first place, there was never any such grant as that described in the *Blue Book*. What the Company did grant to the Count of Hanau was,

"A piece of land situated on the Wild "Coast of America, between the River of "Oronoque and the River of the Amazons, "which His Excellency will be entitled to

Hartsinck, I., pp. 217-222. Rodway & W. Annals of Guayana, II., pp. 5-6. "select, provided he keeps within six Dutch "miles of the other colonies established or "founded by the consent of the aforesaid "Chartered West India Company; which "piece of land shall extend thirty Dutch "miles along the seaboard."

This is something quite different; nor did the grant assert, even by implication, an exclusive right to colonize that coast, and for obvious reasons. It is a familiar fact of history that during that period, and in fact, during the greater part of that century, such "paper grants" of lands by those having no title, was a common practice, not only in Guayana, but throughout nearly the whole of both Americas.

In the second place, this Hanau grant was, as Professor Burr characterizes it, a mere "flash in the pan." It never amounted to anything. It was never even occupied by the grantee or his legal successors; and it will hardly be contended that a grant which was never accepted, created title.

Spain might therefore well be silent; first because she knew that the West India Company owned no vacant land in Guayana; and second, because there would be time enough to speak or act when the Count of Hanau should undertake to occupy under the grant, which he never did.

Moreover, it can hardly have escaped notice that this assumption by the *Blue Book* is fatal to the English case; for if this Hanau grant could apply to the coast between the Essequibo and Orinoco, the necessary implication would be that the Dutch had no colony "established or

Docs. Wash'n Com., I., pp. 114-115.

Docs. Wash'n Com., I., p. 115. founded" which reached from the Essequibo to the Orinoco.

As to the Pumaron.

In October, 1679, Abraham Beekman, then Commandeur of Essequibo, sent a man to the Pumaron to

barter with the Indians for annatro dye. The man was, however, soon recalled through fear of the Caribs, who inhabited the adjacent Barima region. Later on, the Commandeur suggested the building of a lodge somewhere on the Pumaron for the accommodation of "two or three men," whom it was proposed to send there to "dwell among the Indians," and thus occupy the river for purposes of trade. There was no hint of any re-establishment of a Dutch settlement there.

In 1686, Jacob de Jonge persuaded the West India Company to again open the Pumaron to free colonization. Settlement was actually begun; but early in 1689 the French, guided thither by the Caribs through the inland water passages from the Barima, fell upon the new settlement and utterly destroyed it.¹

Rodway's account of this is as follows:

'A Kodway's account of this is as 10.10ws:

"A French pirate who had established himself in the
Barima, g ided by some Indians, made a raid on the Pom"eroon colony, and De Jonge, having no force to defend it,
"was obliged to run away to Kyk-over-al, leaving the little
"that remained in the stores to be plundered by the pirate."

"It was finally resolved by the Council of Ten, on Nov. 15, that the Pomeroon should be abandoned as far as the settlement was concerned."

* * * * " Essequibo and Pomeroon were virtually ruined "and almost deserted, the only remains of the two settlements being the small garrison left by Commodore Crynsen at Kyk-over-al. * * * The energy and perseverance

" of the founders of the Pomeroon colony had been entirely wasted, and now the few planters had abandoned the place

"in despair, hoping for better luck in the more prosperous settlement of Surinam."

Docs. Wash'n Com., (Dutch Archives) Vol. II., pp. 144, 145.

Ib., Id. 174, 181, 188.

Rodway & Watt, Annals, II., 82. Rodway Hist., etc., I., 46.

De Jonge in Supp. Blue Book, p. 66.

Rodway, I., 10.

No subsequent attempt was made to colonize the place. But in September, 1691, a "postholder and one assistant" had been sent there for purposes of trade with the Indians. Nine years later, in 1700, the "postholder in Pumaron at the "Company's trade house" is mentioned in the correspondence as the "postholder in Wacupo" creek, a small stream flowing into the Pumaron, near its mouth, from the west. And in the muster-roll of 1707 mention is made of "the Company's dyehouse in Pumaron and Wacupo."

In December, 1726, this outpost, established for trade purposes, was removed to the right or east bank of the Moroco; thus leaving the Pumaron practically deserted, even as a trading station. Thirty years later (1756) the Dutch Commandeur describes it as "a district bringing no "earthly profit to the Company." In 1757 he described the Pumaron as "uninhabited." In 1779, Inciarte, afterwards Governor of Spanish Guayana, made an examination of the whole Northwest Coast Region and reported that there were "no

Ib. Id., I., pp. 219 220, loc. cit.

Ib. Id. 221. Note.

Ib. Id. 122.

Supp. Blue Book (1896), p. 108.

Span.-Venez Docs., II., 97, 101, 102.

Rodway, I., p. 10.

Rodway & W., II., pp. 12, 86, 88. Rodway Hist., etc., I., p. 73.

Continuing his picture of the desolation of the Essequibo Colony of that period, Mr. Rodway says:

[&]quot;The settlement was nominally in possession of the States of Zealand, but as the mother country had plenty of work at home, nothing could be done for such a paltry place as

[&]quot;Essequibo. The small garrison, however, stayed on, and did the best they could in the absence of supplies, without

[&]quot;a proper head, half-starved, and probably suffering from disease."

From 1691 to 1698 the entire white population did not exceed one hundred. In 1733 the population was less than one hundred and fifty whites and some three hundred slaves.

I See Part I., p. 16 supra.

 $^{^2}$ i, ε , warehouse in which dyes of the forest were collected from the Indians.

signs of any Dutch" between the Moroco and the Orinoco.

Does. Wash'n Com., I., 224, loc. cit. In 1783, while the Essequibo colony was held by the French, grants of land in the Pumaron were made to certain French colonists; but these "paper grants" never amounted to anything. In March of the following year, the Colony was restored to the Dutch.

Blue Book, p. 153,

In 1799, according to an official report of that date, attributed to the British Captain Macrae, there were no "cultivated lands" on the seacoast from the western estuary of the Essequibo to the Spanish settlements in the Orinoco drainage basin. And Bouchenroeder's surveys, made in 1798 and 1802, confirm this. His plat shows every plantation on the coast, and makes the Pumaron the extreme western limit of Dutch occupation.

Map No. 3, herewith.

> In 1804, according to an official despatch by the Colonial Government addressed to the Home Government, the most distant outpost westward on the coast was on the east bank of the Moroco, far beyond any actual settlement.

Blue Book, p. 156.

In 1814, the Treaty of cession by Holland to England described the ceded territory as "the settlements of Demerara, "Essequibo, and Berbice"; and the same description is repeated in the Additional Articles of that Treaty.

Ib. Id. pp. 161, 165.

In 1838, Governor Light, in an official despatch, dated September 1st, said: "The "Pumaron River at the western extremity of "Essequibo' may be taken as a limit to

Parl. Papers, XXXV., p. 278.

i. e. of Essequibo Colony

"the country." And Hadfield's map of the settled region, which the Governor enclosed (and was published by the Parliament as part of his despatch), agrees with his statement just quoted. Three years later, according to Schomburgk's official report (August, 1841), there were not only then no English settlements above the first or lower Cuyuni rapids, but, in his opinion, it was hardly possible, owing to natural impediments, to establish any from the Essequibo side.

In 1843, according to an English authority, even the Essequibo itself had no settlements above its estuaries. All the settlements were on the coast; "the banks "of the river" were "inhabited only by "a few scattered wood-cutters"; while above the first or lower Cataracts (about 48 miles from the coast), there were "no "inhabitants except the Indians." The same was true of both the Cuyuni and Mazaruni. "A short distance above their "junction, these rivers become impeded by "rapids, above which they are frequented "only by a few wandering Indians."

Twenty-eight years later, in 1875, these conditions had not changed. For it was in that year that Mr. C. Barrington Brown, government geologist, describing his survey, said:—

"The civilized and cultivated portion of the

Ib. Id. XXXIV., p. 319. Map No. 4, herewith.

Blue Book, p. 227.

"Local Guide," (1843), p. II.

Ib. Id.

"Canoe and Camp," p. 1.

"Local Guide," Demerara, p. 247.

¹ The British Blue Book (1896) omits the "r" in "country"—a typographical error most likely. But this is unimportant. For by the ordinance of February 5, 1838, (which introduced the word county), it is declared that "county," "colony," "district," etc., all had the same meaning.

"colony lies only along a narrow strip of seacoast.
"The portion between the rear of the sugar estates "and the confines of the colony is known as the "'Interior,' and, with the exception of a few set"tlements on the banks of the lower Berbice,
"Demerara, and Essequibo rivers, it remains to-day
"in the same state as in the time of Raleigh."

In 1892, in a paper read before the Royal Geographical Society, Mr. E. F. im Thurn, an official of British Guiana, said:—

Proc. R. G. S., Oct., 1892. Vol. XIV., p. 668.

"The Dutch dammed back the sea along the south-"ern coasts of the colonies, and reclaiming for "cultivation a narrow strip of alluvial soil, extend-"ing along the sea and river edge, but hardly any-"where more than three or four miles in width. But "their work ended northward at the Pomeroon "River. The whole interior of the country, and even "the seacoast north of the Pomeroon-that is, the "northwestern part of the colony, they left as nature "made it. Since the beginning of this century, when "the country passed from the hands of the Dutch to "those of the English, the latter have rather reduced "than extended the area of cultivation; and though "they have fairly mantained the quality, the land "beyond the narrow belt of cultivation has remained "as Nature made it and the Dutch left it."

Docs, Wash'n Com., I., p. 202. Dutch Towns and Villages. Up to the middle of the eighteenth century, there was not a Dutch town or village anywhere in the Essequibo drainage basin. It was not till 1782 that provision was made for the creation of a new capital on the Demerara. Till then, "the few settlers lived "scattered on their plantations"; and the West India Company's agents and servants were all housed in the little fort at Kykover-al.

In 1716, the Commandeur got permission to build a "new government house" on the mainland, opposite the river island on

Rodway, II., p. 8.

which Fort Kyk-over-al was situated, at the point formed by the junction of the rivers Cuyuni and Mazaruni. It was called House Naby ("House Near-by"), and the little settlement which gathered about it was called Cartabo, from the name of the plantation which then occupied the point. But after 1740, when the "government house" was removed to the new fort on Flag Island, near the coast in the Essequibo delta, Cartabo, like Kyk-over-al, fell into ruins. In 1770. the former consisted of but "twelve or "fifteen houses." The planters had gradually moved down to the more fertile lands on the seacoast and river estuaries, and never afterwards was there any effort made to establish settlements towards the interior. There had never been any plantations above the first Cataracts in either of the three rivers.

In the course of time, Flag Island became known as "Fort Island," and there grew up about this fort a little cluster of buildings consisting of warehouses, public offices and quarters for the little garrison; but aside from these, no town or village ever arose there.

It thus appears that the territory actually occupied by the Dutch, whether in the vicinity of Kyk-over-al or on the coast, was confined to very narrow limits; and that up to less than fifty years ago, the English, their successors, never attempted to extend these limits, nor even to claim any territory beyond them.

Decs. Wash'n Com. I., pp. 202, 203.

Rodway, I., p. 66. Brown, "Canoe and Camp" (1876) pp. 1, 2.

Docs. Wash'n Com., I., p. 203, loc. cit. IV., Atlas, Map No. 60. Dutch Trade Colony, which was mainly with the forest Indians, often extended beyond those limits, and as this fact is now alleged in support of the English claim, it is necessary to enquire more particularly into the nature and character of that trade, and into the means employed for carrying it on.

The products sought were such as could be furnished only by the wild Indians, and consisted of the dyes and oils and precious woods of the forest—such as annatto, letter-wood, carap-oil, balsam, &c.—all of which were gathered without cultivation. But the increasing demand for these made it necessary to seek them far afield; and the means employed to that end were:—

1. Agents or "outrunners" (uitloopers), who scoured by canoe or on foot the adjacent districts, stirring up the Indians to bring in their wares and barter them at the fort, sometimes themselves carrying into the wilderness the trinkets for exchange and bringing back the Indian produce. These outrunners seem to have been regular employés of the Company, and were generally half breed Indians or old negroes familiar with the Indian dialects. Latter on, their names appear on the muster-rolls of the Colony; but the districts or routes of their activity are never named. They were first in one region and then in another; but "the "mention of their travels are so vague

Does. Wash'n Com., I., pp. 203, 204.

Ib. Id.

Ib. Id.Netscher, pp. 374-377.

"that it is impossible to infer their where-"abouts."

2. In addition to these "outrunners," the Company came to have their "outliers" (uitleggers), or, as they subsequently became known, "post-holders." exact date of the origin of these trade "posts" is not known; but it was certainly not prior to the year 1671, when we first find mention of one as being in the river Berbice, nowhere near the territories now in dispute. "It can hardly be doubted," savs Professor Burr, "from the tenor of "Commander Beekman's letter suggesting "such a post on the Pumaron in 1679, "that this was the beginning of a policy "new to Essequibo." In 1691, date of the first muster-roll in the Colonial archives, there were but two "posts," those of Pumaron and Demerara. 1700 that at Mahoicony (far to the east of the Essequibo) had been added. Besides these, but two others were ever attempted to be established; one in 1736, above the first or lower Cataracts in the Essequibo, and the others on the Cuvuni.

These five were all. They were ephemeral in character, and their locations were often changed. That at the mouth of the Pumaron was moved to the Wacupo creek, thence to the east bank of the Moroco, and thence back again to the seacoast. That on the Essequibo was moved farther up the river. While the three successive "posts" on the Cuyuni were at as many different points, and each of short duration.

The functions of "the post-holder" were

Dutch Arch. (Docs. Wash'n Com.)II., pp. 150, 161, 172, 257.

Docs. Wash'n Com., I., p. 205. Note.

Ib. Id.
II., (Dutch Archives) pp. 144–145, 192–199.

Ib. Id. I., p. 206.

Ib. Id.

Ib. Id. I., pp. 207–208. II., p. 543.

ostensibly commercial. He was to collect from the Indians the native products of the forest, and transmit them, by means of Indian porters, to the Company's warehouses on the coast. The "post-holder" and his one or two white assistants were usually old soldiers, and sometimes, but not always, supplied with small arms. "The most important work of a post-holder," wrote the Essequibo Director-General in 1778, "lies in this, that through friendly "and companionable intercourse with the "Indians he seeks more and more to win "them to us, that he further keeps a sleepless "eye on the doings of the neighboring "foreigners, both Christian and Indian, that "he watches for runaway slaves, and has "them caught and returned by the In-"dians"

But these, as we shall see presently, were not all, nor indeed the principal functions of the "post-holders."

The First
Cuyuni Post.

Cuyuni Post.

that of 1703—so little is known that some historians regard it as mythical. Before 1700 there is little mention in the Lutch records of anything beyond the actual coast settlements. But in a letter dated June 2, 1686, the Commandeur of Essequibo says:

"Immediately after closing this, came Daentje, "the company's old negro, from the savannah of "the Pariakotte [Indians] above on the Cuyuni "River. He has been away for fully seven months, "and was detained quite three months by the dry-"ness of the river. All that he has been able to ob-

Supp. Blue Book, p. 62.

¹From which it seems the river was practically impassable, at certain seasons.

"tain is a little maræn oil and hammocks, because "the French are making expeditions through the "country up there in order to buy everything."

In 1684-5, the French, who were then at war with Spain, and likewise hostile to the Dutch, had captured old Guayana Fort on the Orinoco. When the Spaniards drove them out they retreated to Barima, which, for the time being, became the haunt of French free-booters. From thence they proceeded through the inside water passages to the new settlement on the Pumaron, which they finally destroyed in 1700.1

The first mention of the Cuyuni post of 1703 occurs in a letter written in June of that year by Commandeur Beekman, in which he speaks of a recently established "post," six weeks' travel up the river. "near a savanna," where horses were often bought of merchants from Spanish Guayana; the necessary implication being that the Spaniards were long before established there as permanent settlers. This Dutch "post," therefore, established for "trade" purposes, was evidently within what was then recognized as Spanish territory. But from what is now known of the geography of the country, it would have been impossible to bring horses from there overland to the Dutch settlements with commercial success; for which reason Rodway indirectly discredits the whole story. Yet horses Ib. Id. p. 60.

Netscher, pp. 91-92.

See also Cabaliau's Rep., Docs, Wash'n Com., I., pp. 13-19.

Rodway & W. II., p. 88.

The sojourn of the French at Barima (after having been driven from Guayana Vieja by the Spaniards) was purely temporary. It was the custom of the sea rovers of the West Indies, from time to time, to spend the bad season in some anchorage where they could clean and repair their ships. Barima may have been used occasionally for that purpose; but certainly no claim of title to territorial sovereignty was ever made in consequence of such acts.

Blue Book, p. 87.

Ib. Id. p. 69.

could have been readily driven to a Spanish port on the Orinoco, where it appears from contemporaneous evidence the Dutch then went in schooners to trade with the Spaniards. Finally, after an existence of only a few months (if indeed it ever existed), the "post," whatever and wherever it was, was abandoned; for, in the language of the Dutch Commandeur, "the Spaniards no "longer permitted trafficking for horses on "their territory."

It will hardly be claimed, therefore, that this "post," even if its existence could be clearly proven, was, in any legal sense, an occupation of the country in which it had been temporarily situated.

The Indian and aggressive Graves-Slave Trade. and induced the West India Company to throw

open the colony to all comers. Trade then became free, and sugar-planting a leading industry. As this increased, there was a corresponding increased demand for slaves, which the Company was unable to supply. This led to those long series of habitual raids, by means of the Caribs, into what was deemed Spanish territory, for the capture and enslavement of Indians; for the Dutch were too prudent and politic to permit such raids near their own settlements.\footnote{1}{1}

Timehri, X. (N.S.) Pt. I., 14, 15; Pt. II., Vol. II., 348, 349.

Timehri, X. 14, 15; II., 348, 349. Does. Wash'n Com., II., 243.

¹The Council of Ten, at Amsterdam, enjoined upon the Colonial authorities to cultivate the friendship of adjacent Indian tribes. In 1750, when the subject of kidnapping and enslaving Indians was before the Court of Policy of Essequibo, that body forbade the enslavement of Indians residing in territory contiguous to the Colony.

the traffic in Poutos ("red slaves") became more general, Dutch traders would take up their temporary abode remote from the frontiers of the colony, and in territory that was understood to be Spanish, in order to direct and carry on this horrid traffic. The Caribs, whom the Spaniards had not wholly subdued (and who remained a fierce and uncivilized tribe as late as the beginning of the present century), became the allies and instruments of the Dutch in this business. They would kidnap the Indians of the more docile tribes found within or near the Spanish Mission Settlements, and carry their captives to the nearest Dutch "post" or slave station where they were paid for them.

The Second Cuyuni Post, that of 1758. Such was the origin and character of the second Dutch "post" (that of 1757-8) in the Cuyuni

valley. But as soon as the Prefect of the Missions heard of its existence, he informed the Spanish Commander of Guayana, who at once sent a force to break it up. Led by Captain Bonalde, under written instructions from the Spanish colonial authorities, this force, of less than a hundred men, swept the river from its sources downward, found the "post" near the head of the Tonoma Rapids, destroyed it, captured and carried away the "postholder" and his assistants as prisoners; searched for others but found none; returned (up stream twenty-two day's journey) to the place of their embarcation, and thence overland (with their

Archivas de las Indies (Span.-Venez. Docs.) II., pp. 1-35 et seq. Dutch prisoners) to San Thomé, the colonial capital.

In due course, the depositions of the officers, several of the soldiers, and of both the Dutch prisoners, were carefully taken. They are all in the Seville archives, certified copies of which are herewith submitted, together with English translations. Translations of many of them are likewise printed in the supplemental edition of the British Blue Book, of 1896.—Thus both parties now appeal to these documents, from which the following facts appear:

1. That the "post" was "only a short distance" from fort Kyk-over-al, although it took "three natural days to make "it, as the river is navigable only by "keeping with the tides"; and even then, so difficult was the ascent, that it had to be made part of the way through side channels, "creeks and swamps." In other words, the "post" was so far down the river that the marine tidal navigation formed a considerable part of the journey. It could not therefore have been much farther inland than the head of the gorge near the Tonoma Rapids, or say barely within the outer eastern rim of the great Interior Basin of the Cuyuni-Mazaruni, and according to the testimony, fully "seventy leagues" from the mouth to the Yuruary.

2. That the "post" had been but "recently established"; possibly as early as the beginning of the year 1756, but

Arch. de las Indies (Span.-Venez. Docs.) II., pp. 10, 13, 15, 17, 27, 29, 33, 34. Supp. Blue Book,

235 et seg.

Arch de las Indies (Span.-Venez. Docs.) Vol. II., pp. 25, 28, 30.

Ib. Id. p. 189.

I The marine tides extend up to the foot of the first Cataracts in the Cuyuni, a few miles above the junction

certainly not prior to 1755; and that it consisted of only a rude shed or hut, 1b. Id. 17 et seq. "covered with palm leaves, and without "any walls"—an impoverished shelter resting upon upright poles or stakes, such as the forest Indians were in the habit of constructing. Its only inmates were two Dutchmen and their Indian women. No flag, flag-staff, shield, coat of arms, or other emblem of national authority was anywhere visible; and a careful inventory disclosed the fact that there was no Dutch flag, or other ensign of the West India Company, anywhere about the premises. It is quite impossible, therefore, to magnify this improvised slave-trader's hut-this mere shelter-into a "fort" or military center of a district, maintained as an act of sovereignty.

Ib. Id. pp. 27, 29, 33, 34.

- 3. That, according to their sworn testimony, the two Dutchmen had as yet "bought" no red slaves (poytos); but were making "collections" for their predecessors, as would be seen (they said) by the written "instructions" under which they were acting. Among their papers was found a list of "debts," due from various Carib Indians; the "debts" consisting of "27 red slaves" (poytos) and "50 hammocks." The trade-goods and trinkets, it seems, had been given to the Caribs, partly in advance, and the "postholder" was to "collect" from them the red slaves and hammocks in return.
- 4. That the "instructions" alluded to (and afterwards "found in a little box") were carried to San Thomé and delivered

Ib. Id. II., p. 32.

to the Ensign of Infantry, Don Felix Ferreras, who had them translated into Spanish. They will be found in volume II., of the certified copies of the Saville archives, and provide that,

"The Post will be bound to collect all debts due to the previous old Post, and it will be likewise paid at the rate of ten florins a head and a florin for each hammock, and of everything purchased notice will be given to the Governor."

Obviously, this refers to the "collections" of slaves and hammocks above alluded to.¹ Moreover, the "instructions," as a whole, were strangely incongruous with the character of the "post" and its inmates; a fact which, when taken in connection with the instant reference to them by the prisoners, and subsequently by Governor Gravesande himself (in his letter of September 30, 1758, addressed to the Spanish Commandant), raises a suspicion that they had been placed there for the purpose of giving false color in case the place should be surprised and captured by the Spaniards.

5. That there was no Dutch habitation anywhere near this "post"; no site for

Supp. Blue Book, pp. 112, 114.

Blue Book, p. 120.

I The Blue Book mistranslates this so as to mean that the "postholder" was to collect what was due his predecessor for catching fugitive slaves, which is absurd. Of course the new "postholder" was not sent up the Cuyuni to collect what was due to his predecessor from planters at the settlements on the Essequibo! The interpolation of the word "fugitive" is wholly unauthorized, and completely changes the meaning. The original text in the Spanish archives (certified copies of which are herewith submitted; follows:—

[&]quot;La Posta estará obligada á cobrar todas las deudas que se le quedaron deviendo á la otrá Posta antecedente por que tambien se le pagaron los diez florines por cada cabeza y un florin por cada jamaca y así todo lo que compraré lo debe manifestar al Señor Gobernador."

"farming"; no sign of cultivation; and no settlement nearer than Kyk-over-al. The lands about it were "swampy" and untillable. Further up the river were strips of "good land"; but the prisoners testified that "the Governor" had forbade it to be tilled, and would not permit Dutchmen to stay there.

Such are the salient facts as disclosed by the sworn testimony of the eye-witnesses and participants. Now let us see how these facts were interpreted by the two Governments, and what was the result of that interpretation.

Diplomatic Action.

The Dutch Governor addressed a blustering note to the Spanish Governor-General, demanding immediate release of the two prisoners (the "postholder" and his assistant); intimated reprisals in case his demands should not be complied with; and said he should lay the matter before the States-General.

In reply to this the Spanish Governor-General said the location of the "post" was within "the domains" and jurisdiction of the Spanish King, his master, and that

"this being so, and our action being a justifiable "one, I cannot consent to the restitution of the "prisioners whom you demand until I know the will "of my master to whom I have made report. In "the meantime," he adds, "I offer you my services "and pray to God preserve you many years, etc."

Here was not even a symptom of apology, not so much as a customary diplomatic promise to look into the matter, or even to consider it at all. It was a despatch of defiance, based on a distinct Span.-Venez. Docs. II., p. 31. Supp. Blue Book, p. 247.

Blue Book, p. 98. Span.-Venez. Docs Vol. II., p. 137 et seq.

Blue Book, p. 104. Span.-Venez. Docs., II., p. 138. annunciation of sovereign right. Thus the issue was squarely made. The Spaniards claimed and exercised dominion and jurisdiction over the very spot where the incident occurred, over the whole Cuyuni basin above the first falls in that river; and were prepared to enforce that claim.

How was this issue met by the Dutch Government? Gravesande, by dint of persistence, induced the States-General to take up the matter; and in July, 1759, they addressed a mild remonstrance to the court of Spain, asking for redress. No attention whatever was paid to this. Ten years later, in 1769, they addressed another complaint to the Madrid Government respecting similar acts of the Spaniards in the Northwest Coast Region,2 and incidentally referred to the complaint of 1759. The Spanish Government sent to Guayana for a report, and for all the papers relating to both complaints. These, when received, were referred to the Fiscal (the Attorney-General), who merely pigeon-holed them. Five years afterwards they were turned over to the Relator (Counsellor), who did not make his report till late in May, 1785, twenty-six years after the first, and sixteen after the second complaint had been made!

The Attorney-General, noting all the facts, decided that "no further steps were

Span.-Venez.Docs., Vol. II., No. 6. (Docs. Wash'n Com.,Vol. VIII.)

Ib. Id.

Ib. Id. No. 15.

I That the captured "post" of 1758 was just within the outer eastern rim of the great Interior Basin of the Cuyuni-Mazaruni there can be little doubt. (See separate brief on this subject. "Case of Venezuela," Part I.)

² Where some Dutch smugglers had been arrested and their boats and cargo confiscated.

necessary." Why? Because, to quote his own words, "after the long lapse of over "fifteen years, without any further mention" of the subject by the Minister of Holland," it was believed that, "having become better informed, the Republic realizes the want of justice for the claim and had already abandoned it." Whereupon the Cabinet Council voted that the papers in both cases "show the want of foundation for the complaints of the vassals of Holland."

That was practically the end of it. The States-General quietly let the matter drop. In other words, they acquiesced. And by that acquiescence, acknowledged the sovereignty and jurisdiction of Spain, not only in the Cuyuni-Mazaruni Interior Basin; but likewise in the whole Northwest Coast Region from the Orinoco to the Moroco. Surely, then, if ever diplomacy had emphasized an act of forcible and effective physical expulsion, by adding contemptuous treatment of the complaints of the expelled party, that had been done in this case.

In view of these facts, so easy of verification, one is naturally at a loss to understand why the British *Blue Book* should affect to consider the whole transaction, and the result of it, as a confession by Spain that the Dutch complaint and claim of title were unanswerable! Speaking of the first remonstrance, it says:

"This remonstrance was delivered at Madrid in "August, 1759, with a demand for reparation; it

Ib. Id.

Ib. Id. Vols. II. and III.

Blue Book (Venez. No. 1, 1896), p. 13. "never received a formal answer, nor were the "Dutch claims ever repudiated."

Never repudiated? Why, the Dutch had been expelled by force; they had demanded reparation on the ground of title; and their demand was curtly refused on the ground that title was in the King of Spain, and that the Dutch had no case. Could language and acts be more explicit? True, the Dutch complaint was treated with such contempt that it never had a "formal" diplomatic answer; but it none the less had a real answer, supported by subsequent acts-for Spain kept possession ever afterwards, and the Dutch acquiesced in the result. Moreover, the Order in Council, which the Blue Book failed to publish, tells us precisely why there was no "formal" answer, namely, because the Dutch claim of title was deemed "frivolous," and Holland did not press it.

Span.-Venez.
Docs. Vols. II.
and III., pp. 291
and 203.

The Spaniards hold and Control the Cuyuni Basin.

On the 20th of July, 1759, one year after the expulsion, the Dutch Governor

(Gravesande) wrote that "the Spaniards continue to stay" in the Cuyuni, and to "drive away all the Caraibians 1 living there." In October of the following year (1760) he wrote: "The road to Cajoeny "[Cuyuni] was open to them [runaway "slaves], because since the raid upon the "Post there by the Spaniards the river has "not been occupied"; that is, not occupied

Ib. Id. p. 115.

Supp. Blue Book, p. 111.

I Caribs, whom the Dutch employed in the red slave trade; that is, an exercise of dominion by expelling Indian employees of the Dutch.

by the Dutch. August 28, 1761, three vears after the expulsion, the Governor again writes:

"Everything in the upper part of the river [Esse-"quibo] is in a state of upset, the people who live "there bringing their best goods down the stream. "This is because a party of Spaniards and Spanish "Indians in Cajoeny have been down to the lowest "fall where your Lordships' indigo plantation is sit-" uated, driving all the Indians thence, and even, " it is said, having killed several."

Ib. Id. p. 117.

Again, February, 1762:

"They [the Spaniards] are not yet quiet, but send 'detachments from time to time, which come down "as far as the lowest fall, close to the dwelling of your "Lordships' creoles. * * *"1

Ib. Id. p. 120.

And again, May 17, 1762:

"From the reports received from the upper part of the river. I learn that the Spanish Indians of 'the Missions continue to send out daily patrols as " far as the great fall (just below which your Lord-"ships' creoles live)."

In August, of the same year, he writes that "the Spaniards up in Cajoeny are "engaged in building boats"; he fears "this may lead to the entire ruin of the Colony." He adds that the Caribs (employés and allies of the Dutch) were then "all driven away from there" [the Cuyuni] and have retired "right up into " Essequibo."

Ib. Id. p. 121.

In 1763, five years after the expulsion, he suggested that the Company "again take "possession" of the Cuyuni.

Ib. Id. p. 123.

In September of the same year he wrote of "the still abandoned post in Cajoeny."

Ib. Id. p. 126.

In October of the same year he wrote:

Ib. Id.

[&]quot;It is certain, your Lordships, that this is not the

¹ Not far above Kyk-over-al. See map No. 3 herewith; also Rodway, Hist. Guiana vol. I., p. 107.

"time to think of the re-establishment of the Post in Cajoeny. That matter will give us plenty of work to do when, with the blessing of God, all is at rest and in peace, because, the Spaniards having driven all the Indians out of the river, it will be no small matter to get all the necessary buildings in readiness there."

In 1764 he wrote that the Spaniards were gradually extending their Missions down the Cuyuni; that "small parties sent "out by them" were coming close to the place [at the lowest cataracts] where the Company's "indigo plantations" stood; and that they were "certain to try to estabulate the stabulate that the stabulate the stabulate that the stabulate th

Under date of August 13, 1765, he wrote:

"This is certain, that so long as no satisfaction is given by the Court of Spain concerning the occurrence of the Post in Caioeny, the Spaniards will gradually become more insolent, and will encroach upon our ground from year to year."

To the foregoing missive, the Directors of the Company replied, September 19, 1765:

"We are perfectly at one with your Honor that the restoration of the Post in Cuyuni is of the highest necessity, and accordingly it was most active the country of the second to offer a helping hand, provided an assurance of protection against the Spaniards was given them, which it was easy to promise."

The Third
Cuyuni
"Post."

There is no very clear
indication where this proposed new post was to be
located; but from the doc-

uments herewith submitted it is manifest that it was to be near "provision grounds "cultivated by slaves"; that is, below the

Ib. Id. p. 130.

Ib. Id. 136,

Ib. Id. 137.

old "post" and near the existing Dutch settlements, all of which were below the first Cataracts. That it was a new plan, and implied a new location farther down the river than first proposed by Governor Gravesande, is manifest from his letter of December 28, 1764, wherein, referring to the location he had proposed, he said that "with slaves it is not only too costly but "too dangerous."

Under date of January 18, 1766, he informed the Company that he had engaged a postholder, but could not find as many as even six trustworthy soldiers to accompany him.

In October of the same year he wrote that the "postholder" would go up the river directly in order to "build" the post. In December following, he announced that the postholder was at work; that he would have two assistants; but added, "I dare "not trust any of the soldiers here to go "up there," as they were all Catholics and would "desert to the Spaniards." Consequently, the proposed garrison of an officer and half a dozen soldiers vanished.

Under date of March 20, 1767, the Directors of the Company wrote complaining that "the erection of the post in Cuyuni" continues to be slow."

Twice during the same year this new "post" seems to have been raided by the Spaniards, even before its completion.

In April, 1768, the postholder had left. "I have no one there now but the two as- "sistants," wrote Gravesande.

February 21, 1769, he wrote:

Ib. Id, 134.

Ib. Id. 138-9.

Ib. Id. 141, 154

Ib. Id. 144.

Ib. Id. 148-9.

Ib. Id. 152-3.

Ib. Id. p. 159.

"It is finished now, my lords; neither Postholders "nor Posts are of any use now. The slaves can "now proceed at their ease to the [Spanish] Mis- "sions, without fear of being pursued, and we shall "in a short-time have entirely lost possession of the "river Cajoeny."

That is, of the lower river; the upper river had long been "lost." And the natural result of this will be, he said, the gradual abandonment of "the river Essequibo" itself.

Ib. Id. 154, 155, 1**5**6, 157, 165, 166.

He next points out the pitiable weakness of the new "post." He could trust there neither soldiers nor slaves; the Caribs, cowed by the Spaniards, had fled to the upper Essequibo, and could not be induced to return; the Spaniards policed the Cuyuni from its sources down to the lower Cataracts; down to the Creole settlements; all was irretrievably lost.

In other words, the Spaniards exercised political dominion and sovereign authority throughout whole Interior Basin of the Cuyuni-Mazaruni; threatened the very existence of the Kyk-over-al settlement; and the Dutch Governor confessed himself powerless to prevent it.

Under date of March 3, 1769, he wrote:

Ib. Id. p. 160.

"Nor can we be warned in any way by Indians, "there being no more of these in that river. They did begin to settle there again when the post was re-established, but the raid made by the Spaniards last year, when a large party of Indians were captured and taken away, has filled the rest with terror, and they are gradually drawing off."

Twelve days later he wrote that the Spaniards were practically in "the mastery of the river," and had been since the "end of the past year."

Ib. Id. 161.

Then, had this second Cuyuni "post" already disappeared? Or did it linger on a few weeks longer? The records do not say. But they leave no room to doubt that the Spaniards were and had been for some time (practically for ten years in fact) in the effective possession of the whole Cuyuni basin.

The last allusion to the new post in Cuyuni is in a letter dated June 1, 1770, written by the assistant postholder—the postholder having fled, and no successor having been appointed. The letter states that,

"The greater part of the Caraibans have departed from Cajoeny to Masseroeny to make dwelling places there, and some have gone to Upper Siepanamen to live there."

And the last time the name of this "assistant postholder" appears on the muster roll of the Company is December, 1771. Whether the Spaniards destroyed the post before or after its abandonment is not material. The Dutch never again attempted to occupy the river, or any part of the great Interior Basin; while prior to that, all their attempts to occupy it (after their expulsion in 1758) resulted in complete failure. Not a vestige of Dutch occupation remained after the disappearance of the last Cuyuni post in 1771, or say more than a century and a quarter ago.

Professor Burr, the historical expert of the Washington Commission, after a most impartial, patient, and critical examination of all the Dutch and Spanish archives bearing on this subject, concludes: Ib. Id. 180.

Docs. Wash'n Com., Vol. I., pp. 301-347. 1. That while the Dutch occupation of the mouth of the Cuyuni goes back to the earliest presence of the Dutch in the Essequibo, plantations never extended up that river until the eighteenth century, "and were never at any time carried above "the lowest falls."

2. That while mining in the Cuyuni was attempted by the Dutch in the years 1741-1743, "the farthest operations" were only "about two days journey" from its mouth; and these, we may remember, were abandoned before the destruction of the first Cuyuni post, and never resumed.

3. That "thrice, for brief periods," the Dutch had a "post" in the Cuyuni valley; first "in 1703, from May to September, at "a point unknown, but in the savanna, "and most probably on the Curumo; "second, in 1754-1758, at Cuiva (probably "Quive-Kuru), three days up the river" from its mouth; and third, in "1766-1772, "first at the island of Toko-ro (1766-"1769), then at that of Tænamæto, in the "Tonoma Rapids (1769-1772)."

The
Pumaron-WacupoMoroco Post,

As already pointed out, the Moroco river and the waterparting ridge ex-

tending southward from the head-waters to the main affluent of that river to the Imataca range, constitute a natural divisional line between the Northwest Coast Region, and the Essequibo Pumaron Region. All west of the Moroco is Orinoco delta; all east of it is essentially Essequibo delta.

The Moroco has but three affluents,

Supra, pp. 15, 16.

Does. Wash'n Com., IV. Atlas No. 3, Br. Admiralty Chart., No. 1801.

namely, the creeks Moroco, Haimara, and Manawarima. The first named (whence is derived the name of the river) rises in the lowlands of the coast and flows southeasterly to the junction; and is connected with the Barimani (an affluent of the Waini) by the Itabo caño, and thence by the Itabo-Morebo channel with the river Barima—thus forming a continuous inland waterway to the eastern or main estuary of the Orinoco. The Haimara, a smaller stream, has its source farther southward and flows thence, in a general direction. northeastward to the junction. Manawarima, the largest of the three, rises near the foothills of the Imatacas and runs northeastward to the junction, from whence the three flow in united stream known as the River Moroco in direct line northward to the ocean, where it disembogues some two and a half or three miles westward of the mouth of the Pumaron.

The Wacupo creek, a small affluent of the Pumaron, rises eastward of the Manawarima and runs some distance parallel with it; but it is not in any way connected with it, except in time of protracted rains and floods, when an intervening swamp is sometimes partially or wholly submerged.

Of the Pumaron-Wacupo-Moroco "post" (for it was, at different periods, known by each of these names) mention is made in the Dutch archives as early as 1679, when in October of that year Abraham Beekman, then Commandeur of Essequibo, wrote to the West India Company that,

Docs. Wash'n Com., Vol. IV. Atlas, Map No. 3. Br. Admiralty Chart, 1891, No. 1801.

Ib. Id.

Ib. Id.

Ib. Id.

Dutch Archives. (Docs. Wash'n Com.), Vol. II., pp. 144. 145.

Ib. Id. 144.

Ib. Id.

Does. Wash'n Com., I., pp. 219, 220. II., pp. 192, 193.

Ib. Id. 11., p. 199. 1., p. 220,

Blue Book, No. 3, p. 64. "The River Pomeroon also promises some profit. In order to make a trial of it, I sent thither in "August last one of my soldiers to barter for annatto dye."

The soldier was however soon withdrawn, owing to the fear of the Barima Indians. But late in October of the same year, "the scare being over," the Commandeur wrote:

"I shall send him back there within four or five weeks (the dye season not fairly beginning there before that date), and if the trade prospers it would onto be a bad idea to build there a little hut for two or three men, so that they may dwell permanently among the Indians and occupy that river. Thus these [Indians] would be stimulated to furnish a deal of annatto, for the place is too far off for them to bring it here to the fort. In that event, you ought to send me more men from the fatherland."

The post was established, and (as would seem) maintained even after the destruction of the ill-fated Pumaron Colony, in 1689; but with but two men instead of three, for, according to the muster-roll of September 6, 1691, there was only a post-holder and one assistant.

In 1700, it was on the same footing; but its site seems to have been changed to Wacupo creek. There is, however, some confusion as to the name; since, while the pay-roll for that year mentions the "post-holder in Pumaron," the muster-roll makes the same soldier "postholder in Wacupo." But by 1704, pay-roll and muster-roll were in accord, and both speak of the same soldier (Jan Debbaut) as "postholder in Wacupo."

In the journal of the Commandeur for 1686, we read of a "postholder in Courey." But Courey (or Korey as it was sometimes

written) was the name of the swampy flat between the Wacupo and the Manawarima; and, as in time of overflow, this flat probably afforded a canoe passage between the two creeks, no point on the Wacupo could be a more natural site for this outpost than the junction with the passage through these wet meadows. And this is precisely where the maps of the time show it to have been.

In 1707, Commandeur Beekman suggested the laving of a toll on traders from other colonies, who should pass through this frontier gateway (and thence through the inland waters) for traffic with the Spaniards of the Orinoco. But his successor opposed this; the Company questioned the legality of such a measure; and both objected to the expense it would probably involve. It would have been necessary to establish a new post on the Pumaron side of the Moroco River at its mouth; or else to remove the Wacupo post to some point that would command both entrances to the Orinoco delta waters. which was of course impossible.

The Post Removed to the Moroco.

The Post Removed to the Moroco.

The Post Removed finally moved, however, to the right or east bank of the Moroco, some distance up from its mouth; the "Couray" or Wacupo route to the Orinoco delta waters being little frequented. The used, and in fact the only available gateway was from the Moroco through the Itabo caño. So in October, 1726, the Dutch Commandeur (Gelskerke) informed the Essequibo Court

Does. Wash'n Com., II., p. 237.

Ib. Id., Vol. IV., Atlas, Map 68.

Docs. Wash'n Com., II., pp. 229, 230. Blue Book No. 3, pp. 72, 73.

Docs. Wash'n Com. I., pp. 222, 230, 231. II., pp. 236, 237. of Policy of his purpose to remove the post to the Moroco. "That," he said. "was the fittest place for the post" because it was

"at the landing where those fetching horses, "coming from the Orinoco into the river Moroco, "usually stop (a place called in the Indian language "Acoujere),1 it being possible to build a lodge "(house) there so close to the river side2 that a "hand-grenade can be thrown into boats, the river "being at its narrowest there."

The transfer thus foreshadowed seems to have been made some time between 1726 and 1729; but not till 1731 do we find the name of "Wacupo" coupled with that of "Moroco" in connection with this post. Thenceforth for some time both names were used indifferently or sometimes both together. From about 1747 the name dropped, and " Wacupo" was "Moroco" alone was used. In 1757, the Spaniards of the Orinoco, hearing that the Dutch were building a "new post" on the Moroco, sent a force to reconnoiter; but they found only the old post, some 15 or 16 miles up the river from its mouth, that is to say, on the site of 1826-9.

Where, then, was the site? That it was on the right or east bank of the Moroco, well up from its mouth, is shown by Governor Gravesande's sketch map, transmitted to the Company in 1749. The Spanish Jesuit sketch map, which he obtained and transmitted in 1750 shows the same site; and this agrees with the description given

Vol. IV., Atlas, Map 60.

Ib. Id. map 61.

Docs. Wash'n Com. I., p. 230, loc. cit.

Ib. Id. II., pp. 278, 305, 307, 309, 332.

Docs, Wash'n Com.

I "Acoujere," however, happens to be a word in the Spanish language.

² i. e. its east bank. (See Infra.)

of it by the Spanish Governor-General in 1747, who, speaking of the inland (Itabo) water passage, says:

"The stronghold called the post, which the Dutch of Essequibo maintain with three men and two small cannons, sixteen leagues from the Colony towards the ship channel of the Orinoco," towards the ship channel of the Orinoco,

And the Capuchin missionaries who visited this "Moroco post" in 1769, described it as—

"A thatch-covered house on the east bank of the "Moruca, tolerated there (by the Spaniards) for about forty years."

"Forty years" takes us back to 1729, when the Wacupo post had been but recently moved to this site on the Moroco, where the Capuchins saw it in 1769.

It is well known that the ocean current which steadily sweeps down the coast westward to the main mouth of the Orinoco, renders approach thence to the *Pumaron Essequibo Region* very difficult, if not impossible, especially in canoes and small sailing crafts such as were in common use there up to less than a century ago. Hence this inland water-route between the delta region of the Orinoco and that of the Essequibo, became the avenue of trade' between the Spanish and Dutch settlements.

Arch. de las Indies. (Span.-Venez. Docs.,) Vol. III., p. 114.

Blue Book, No. 1, p. 114.

I That is 16 leagues (about 48 miles) from the settled limits of the Dutch Colony,

² Literally "in front of" (a frente) the ship channel.

³ The Moroco River, the Itabo caño, the Itabo Morebo caño, and the Barima River, constitute this inland ship channel. It led into Braza (or Caño) Barima, which was then, as now the eastern estuary of the Orinoco.

⁴And more frequently than otherwise of illicit trade; for both nations periodically complained that smugglers infested the coast region between the two settlements.

It had not only become the avenue of trade, but was sometimes used for hostile purposes; and as a precautionary measure to prevent surprises by possible enemies, this "Wacupo-Moroco" post was sometimes put to important use. Thus as early as May, 1628, the Court of Policy, having learned from the postholder of the seizure by the Orinoco Spaniards of a Surinam vessel, and being apprehensive of further demonstrations of a hostile character from that quarter,

Docs. Wash'n Com., Vol. I., pp. 231, 232, Vol. II. (Dutch Archives), p. 256.

Blue Book, No. 3, p. 81. "Resolved to reinforce the aforesaid post of Wacupo
"with two soldiers, and to direct Jan Batiste (the
"postholder) to keep the necessary beacons in order,
"so that" they might "receive the earliest informa"tion in case the Spaniards should send any armed
"vessel to this colony."

It had been thought at one time that the removal of the post from Wacupo to Moroco would lead to increased trade with the Indians. But this hope, it seems, was disappointed; for in 1737, the Governor reported to the West India Company, that "the post Wacupo and Moroco, formerly "the most important trading-place for the "Company's annatto trade, has these last "years fallen off in this business"; the cause being, as he goes on to explain, the activity of the Surinam slave-traders,1 who had demoralized the Indians. "While "I see no way of changing this," he adds, "we must nevertheless keep up this post, "because it was established for the main-

Docs. Wash'n Com. (Dutch Archives), II., p. 278.

^I Red slaves or *poytos* were systematically kidnapped from near Spanish mission settlements, or unoccupied territory deemed Spanish. (See *supra*, pp. 97-8)

"tenance of your frontiers stretching toward the Orinoco."

By the middle of the eighteenth century, the escape of the slaves to the Orinoco had become a growing evil. The ocean current sweeping westward along the coast made it easy for these fugitives to escape by the outside sea route, and thus avoid the inland exit which was guarded by the post. So in January, 1754, it was resolved by the Court of Policy, "to place a post "on the side of the Moroco" at its mouth, "to prevent the desertion of slaves."

This project was soon abandoned, at least for the time being; for the panic caused by a rumor that the Spaniards of the Orinoco were preparing to attack the Dutch settlements, gave the authorities other things to think about. In September, 1755, the Director-General, alarmed by these rumors, informed the Company that he had detached "eight or ten men to garrison and "defend as far as possible the post of "Moroco," which he feared would "bear "the brunt." On the 12th of October, following, he reported that "two small "vessels" had been made "(whereof one "is ready, and the other almost so) to keep "guard between Moruca and Pomeroon," and another (a private barque) had been

Blue Book, No. 3, pp. 97-98.

Ib., Id., p. 99.

Ib. Id. pp. 99-101.

¹ i.e. protection.

² Some 48 miles to the eastward of this outpost.

^{3 &}quot;Toward," not at. Any distance, however short, northwestward from the Essequibo-Pumaron Region would be of course "toward the Orinoco."

⁴ That is to say the same "side" on which the old post was situated, but lower down at the river's mouth.

⁵ Literally to "keep watch" (De wacht), not to "keep the way" as the Blue Book has it.

Docs. Wash'n Com., I., p. 233. Note.

Ib. 1a.

Blue Book, No. 3, p. 106.

Arch. de las Indies, (Span.-Venez. Docs.), Vol. III., pp. 161-169. "equipped to go and lie by the angle of "the Pumaron." In the same letter he reported that he had "sent order to "Moroco¹ to "cause all inland waters "and passages to be blocked" (by felling timber) so that the foe "may not be able "to pass with small vessels."

In January, 1756, the panic having subsided, the Court of Policy again considered the proposition to move the post down to the mouth of the Moroco. Whether the order was accordingly given² is not clear, nor is that material; we know from Spanish sources that if given, it was not carried out. In 1757, Iturriaga, the Spanish Commander in the Orinoco, heard through some Capuchin missionaries, that the Dutch were building a new fort on the Moroco. He at once sent a subordinate to visit the place and report the result of his investigations. On the 2d of December of the same year, this subordinate reported that the only basis of the rumor was the reputed "intention" of the Dutch, not to build a new fort, but to remove to the mouth of the Moroco "the "guard which, under the name of 'post' "they maintain on the Moroco channel."3 So the post was still at the old site.

On the 30th March, 1758, the Spanish subordinate officer who had been sent to again reconnoiter, reported that the contemplated change of the post on the

i.e. to the Moroco postholder.

² See Blue Book (No. 3, p. 105); also Prof. Burr's Report (Doc. Wash. Com., Vol. I., p. 234 and Note).

³ i. e. at the bend near the junction.

Moroco had not yet taken place. The Dutch, he said, had built at the mouth of the river only a lodge "for the use of those "engaged in the trade of the Colony and "to serve as a rest house while the "river is in flood." The "post" was still at its old site, up the river on its right or east bank near the junction.

It was still there in 1779, as appears from Inciarte's official Report of that year, made after he had carefully reconnoitered the entire region from the Orinoco to the Pumaron; and his lucid Report makes it clear that the post was on the right or east' side of the Moroco, near the Manawarima junction, where the river turns at right angles and flows thence in straight line to the ocean.

It seems to have been kept up there till 1781-1784, when the English and French took military possession of the Essequibo Colony; although, before this, complaints had been frequent by the Director-General that it was practically "useless."

The Moroco
Post moved
down to the
Coast.

In 1784, when the Dutch resumed possession, steps were taken to move the post down to the mouth of the

river; and the precise location of the new site we know with exactness from the map made by the Colonial surveyors in 1794. It was on the east bank of the Moroco, at its very mouth, where it thenceforth remained; the old site above, on the same side of the

Arch, de las Indies, (Span,-Venez. Docs.), II., pp. 102-103. Docs. Wash'n Com., II., pp. 374-375, IV., Atlas, Maps 64, 66, 68.

Limites &c. de Guayana (Seijas), 87-96; in Eng. Trans., pp. 84-89.

Docs. Wash'n Com., II., pp. 539, 542, 543, 579, 586.

Ib. Id. Vol. IV., Atlas. Map 69, Vol. II., pp. 612-632,

¹ Strictly *southeast* by the compass; but generally spoken of as "east." The post was on the side next to the Pumaron.

Ib. Id. Vol. I., p. 242. Note.

Ib. Id. Vol. II., pp. 611, 616, 618, 632, 634.

Ib. Id. Vol. I., p. 242, loc. cit.

Ib. Id. Vol. II., p. 657.

Ib. Id. p. 656.

Does. Wash'n Com., Vol. II., pp. 655, 656, 657.

Seijas' Limites Britanicos de Guayana (Paris Edition, 1888), pp. 84-89.

river having been abandoned. In 1792, after the final extinction of the West India Company, and the Colony had been taken in charge by the Dutch Government, this was the only "post" which continued to appear on the pay and muster rolls; and it seems to have been maintained at the same site until the second military occupation by the British in 1796, when it was likewise abandoned.

In 1802, when the Dutch again resumed possession, they found this Moroco post in "ruins"; but they took steps to re-establish In the journal of the Dutch Governor-General, wherein he is speaking of the detachment to be sent there, it is inadvertently called "the post Orinoco"; but, as Prof. Burr has pointed out (in a foot-note, page 656, Vol. II., Docs. Wash. Com.), this is manifestly a mere lapsus pennee.1 That it was the same old Moroco post (or "guard under name of 'post' "). which had been moved down to the coast at the very mouth of the Moroco on its east or Pumaron side, and no other, is manifest not only from the context in Governor Meerten's journal, but from his subsequent official despatch to the Home Government (dated December 17, 1802), wherein he speaks of the same post as "the post Moroco."

It is noticeable that the minute and elaborate reconnoissance of the Moroco and Pumaron, made in 1779 by the Spanish officer, Inciarte, although open and above

I See also foot-note, p. 239, Vol. I., Docs. Wash. Com.

board, was attended by no breach of the peace. At that time the Dutch still maintained their outpost on the right bank of the Moroco. Inciarte and his party were there: they surveyed the ground all around this "post"; fixed on a site for a Spanish town and a fort within a pistol shot of it; passed on to the Pumaron river, which they examined minutely; and then returned to the Orinoco as they had come, by way of the upper Moroco and the Itabo caños. The Dutch must have been cognizant of his presence and movements, and presumably acquainted with the nature and object of his work; yet they raised not a word of complaint or remonstrance either then or thereafter. The almost necessary inference is that they regarded his presence and his surveys as the acts of a lawfully commissioned agent of a Government exercising sovereignty and dominion, not only over the whole region west of the Moroco, but likewise over the territory between that river and the Pumaron, including the very spot whereon the "post" was situated, and where it had been merely "tolerated" by the Spanish authorities for above "forty years."

Moreover, the Royal Order of October 1, 1780, issued in accordance with Inciarte's recommendations² was not hidden under a bushel. There was nothing secret

Ib. Id. pp. 89, 90.

 $^{^{\}rm I}$ For the purposes of trade, and for intercepting runaway slaves (see supra).

² Namely, to build a town and fort on the east bank of the upper Moroco, right by this Dutch outpost, and to settle the surrounding country

about it. It was an open, public executive act, and must have been known to the Dutch Ambassador. Yet there was not a word of complaint, either from him or his Government. The almost necessary inference therefore, is that if the Dutch had ever set up any claim of title to the Moroco, or to any territory west of that river, they had now abandoned it.

But we are not left to inference alone in this matter. In 1794, fifteen years after the date of Inciarte's report, and fourteen after the date of the Royal Order issued in accordance therewith, the Dutch Colonial authorities, as well as the Home Government itself, distinctly recognized the Moroco, as being "within Spanish "territory," as appears from the official correspondence of that year, relative to the Spanish merchant vessel Nuestra Señora de la Concepcion.

Arch. de las Indies (Span.-Venez. Docs.), Vol. III., No. xx.

To sum up then, it appears,

1. That towards the close of the seventeenth century, the "post" in question was originally established on the Pumaron river, as "an outlier's lodge," for the declared purpose of trade in forest dyes, gathered by the Indians; and that its only inmates were two unmarried men, employés of the Dutch West India Company.

2. That early in the eighteenth century, this same "post" was moved up the Wacupo creek, near to a swamp called "Courey," where it was maintained on precisely the same footing, till 1726, when it was again moved, this time to the east

bank of the Moroco, some 15 or 16 miles from the mouth of that river, where it remained till the first military occupation of the colony by the English and French, in 1781-3.

- 3. That in 1784, when the Dutch resumed possession, steps were taken to move the "post" down to the coast, on the east bank of the Moroco, "at its very mouth," where it remained till the final extinction of the West India Company in 1791-2, but was abandoned after the second military occupation by the English, in 1796.
- 4. That when the Dutch again resumed possession of the colony in 1802-3, they found the "post in ruins," but took steps to reestablish it, at the same place on the coast east of the Moroco mouth (where a sort of frontier "outlook" or "guard" seems to have been kept up at intervals), till the final occupation of the colony by the English, which resulted in the cession of 1814.
- 5. That at no time, from the seventeenth century till the very end of the eighteenth, did this migratory outpost have any settlers; that in 1779-80, it was at least tacitly acknowledged by the Dutch to be within the territorial domain and jurisdiction of Spain; and that, in 1794, the Moroco river was expressly so acknowledged, not only by the Dutch Colonial authorities, but by the Dutch Government as well.

Docs. Wash'n Com., Vol. I., pp. 248-9, Note; 261, 262, Note; pp. 291, 292, 243. Vol. II., (Dutch Arch.), pp. 257, 250, 641, 659, 660, 661. De Laet, p. 588. Netscher, Hist. Guiana. West of the Moroco river there was never a Dutch grant of colonial lands; and never a Dutch outpost or trading station. Nor was the Waini river ever occupied or in any manner used by the Dutch, save only for trade and for fishing at its mouth. Even these privileges were never exclusively enjoyed by the Dutch, and were afterwards prohibited to them by the Spaniards, who always claimed that river and asserted jurisdiction over it.

These well authenticated facts of history. so clearly brought out by the recent investigations of the Washington Commission, ought to be sufficient, it would seem, toeffectually dispose of any claim or pretended claim to that region predicated upon alleged occupation by the Dutch. since the present British contention restsmainly, if not entirely, on an alleged tradition that, in some remote and now forgotten period, the Dutch did, for a short time at least, maintain a "post" or a "fort," or something of the kind somewhere on the Barima river, let us see what foundation there may have been for this shadowy legend.

The river Barima, it is well known, was the center and stronghold of the Carib Indians; a fierce and warlike tribe, difficult to bring under subjection, and often in revolt against the Spanish conquerors. It was the chiefs of this tribe to whom Raleigh exhibited the portrait of his queen in 1595; to whom he promised deliverance

Supra, pp. 38-39 et seq., loc. cit.

from Spanish rule, and with whom he left two of his men as an earnest of that promise. And it was from these savage chiefs that the Spanish Colonial authorities took the only survivor of these two Englishmen a few months later; it was they whom the Spanish authorities warned not to receive nor entertain any more "foreigners"; and it was to them that Captain Keymis, Raleigh's lieutenant, confessed, two years later, that he came only for "trade," and without sufficient force to attack the Spaniards.

Up to that time the Dutch had not even visited that region; and we have already seen how futile were all Raleigh's subsequent attempts to wrest it from the grasp of the Spaniards.

The mouth of the Barima, it may be remembered, is the natural gateway from the eastern estuary of the Orinoco, through the inland passage, to the Moroco; and, from the earliest times, this inland passage was the commonly used avenue of trade between the Orinoco and Essequibo delta regions. At different times during the first century and a half after the discovery and occupation of this region by the Spaniards, the Barima was visited, for purposes of traffic with the Indians, by the subjects of nearly all the commercial powers. Thus the English, according to Keymis, were there for "trade" only in 1596-7. The Dutch touched there for trade, according to Cabeliau, during their first visit to the Guayana coast in 1598. And the French, who came

Ib. Id. pp. 42, 43, 44, 45.

Docs. Wash'n Com, Vol. IV., Atlas. Maps, No. 1-10. Brit. Admiralty Chart, 1891.

Docs. Wash'n Com., Vol. II., pp. 17, 156, 160, 172, 188, 190. later, traded there early in the seventeenth century.

Ib. Id. I., pp. 219, 220. II., pp. 188, 190, 195.

Indeed, the French once temporarily occupied that river, which the Dutch never did. In 1684, when they raided the Orinoco and had been driven out by the Spaniards, they took temporary refuge in the Barima. Passing thence through the inland waterway to the Moroco, and thence across to the Pumaron, they destroyed the newly established Dutch settlement on the last named river and fortified themselves at its mouth. And this, we may remember took place subsequent to Commandeur Beekman's suggestion, made to the West India Company, that a Dutch "post" or permanent outliership be established in the Barima in order to facilitate trade with the Indians; a suggestion which, as we shall see presently, was never approved by the Company, and never acted upon.

Fully comprehending the importance of the Barima region as a trade center, the Dutch had already begun to cultivate the friendship of the Caribs; the first step in that direction being taken by Commandeur Beekman in the year 1683. In his letter of January 8th of that year, he cautioned the Company against shrewd bargaining with the Indians, because there was a powerful trade rival in the French from Martinique. He substantially repeated the same warning in his letter of February 25th of that year. On the 25th December of that year, he wrote that he had sent one of the Company's employés to take up his temporary

Does. Wash'n Com., 11., pp. 155, 156, 157, 158.

Ib. Id. 158, 159.

abode among the Indians of the Barima; because, to quote his own words,

"There is much annatto and letter-wood there, "and it is close by Pumaron. Recently, too," he continues, "it has been navigated as many as two "or three times by Gabriel Biscop, and exploited with great success, much to the prejudice of "the Company. I hope this will meet your ap-"proval. That trade, both there and in Pumaron I have forbidden to him, and to all others as well, "I wish you would take that river also into your possession, as has been provisionally done by me, in order to see what revenues it will yield, since I "am of opinion that the Company can do as good "trade there in an open river as can private in-"dividuals."

Ib. Id. pp. 158, 159.

Writing again to the Company, under date of March 31, 1684, before there had been time to receive a reply to his first letter, the Commandeur says:

"Pomeroon begins to furnish annually much and "good annatto, and much was brought from Barima, "as appears from the enclosed list, under No. 7, from "which you will see how much has been got by bar-"ter here at the fort as well as by all the outliers: "but Gabriel Biscop and other sea-rovers from "Surinam not only spoil that trade, but buy up all "the letter-wood, which is there fairly abundant and "good, and also all the carap oil and hammocks, so "that this year I have got only a very few, and they "are old and wretched. They traverse and scour the "land even into the river Cuyuni. In order some-"what to check this, I have had a little shelter made "in Barima; and Abraham Boudardt, who is stationed "there 1 as outlier in place of Daniel Galle, who is "going home, shall sometimes visit that place and "stir up the Caribs to the trade in annatto and letter "wood-which even the French from the island "frequently come with their vessels and get. It "would therefore, if I may suggest, not be amiss

Dutch Arch. Docs. Wash'n Com., II., No. 59, pp. 159, 160.

Docs. Wash'n Com., Vol. I., pp., 263-4. Notes and loc. cit.

I Abraham Boudardt was the outlier in Pumaron. The Commandeur was often careless about his grammar, so that "there" refers to the Pumaron and not to the Barima, as has been pointed out by Professor Burr.

"that the West India Company, in order to get the "aforesaid trade, should take that river Barima into "possession, and should establish there a permanent "outliership."

A full text of these letters, in the original Dutch, and also in English translation, will be found in the printed documents already before the Tribunal.² Carefully studied, these letters disclose the following facts:

- 1. That about the beginning of the dry season, in 1683, when the Indians would be engaged in collecting the dyes and other products of the forest, the Essequibo Commandeur caused, for the first time, an employé of the Company to visit the upper Barima "close by" the Pumaron for the purpose of bartering with the Indians; and that the sojourn of this employé was only temporary and experimental, and was so intended, appears from the next thing which the Commandeur did, namely,
- 2. That by the end of March, 1684, just before the wet season would begin, he caused to be built a "little shelter" there, such as an Indian would erect in a single night; an improvised shed covered with leaves, never meant for a residence, but only to afford temporary accommodation to the Pumaron outlier who was to "visit" there occasionally in order to stir up the Indians to greater activity in the annatto trade.

Ib. Id. pp. 159-162.

¹ Not a "post" or "postholder," but a place or lodge for an outlier (uit leggar), an occasional visitor whose bust ness it was to incite the Indians to gather forest dyes, etc.

² Rep. and Papers of the Wash. Com., Vol. II. (Dutch Arch.), pp. 158 to 162 inclusive.

- 3. That the Commandeur had forbidden to the Surinam trader, Gabriel Biscop (or Bishop), and all other Hollanders outside the Company, the annatto and gum trade in both the Pumaron and the Barima; that is, he had taken those rivers into possession for the Company, but only provisionally, in order to learn something of the possibilities of the trade there while awaiting the Company's approval. If the Company should approve his action and accept his suggestions, then a permanent outliership would be established there: otherwise, the man would cease his "visits," and the "little shelter" would be abandoned. Confessedly, then, he had acted without authority, and all now depended upon the Company's answer.
- 4. That answer came promptly; but so far from approving the Commandeur's action or accepting his suggestions, the long letter of the Company was "a string of reproaches from beginning to end." Nothing that the poor subordinate had done was satisfactory to the Directors of the Company. He was arraigned for transcending his authority. His financial honor was impeached. commercial common sense and his sincerity were discredited. Even the grammar of his letters was mercilessly criticized; he was admonished to try to write "pure Dutch." In a word, it was such a roasting as would have caused almost any other man to throw up his commission.

It is very true there was no direct reply to his particular suggestion as to a "post" in Barima. It was not even mentioned. Dutch Arch. (Docs. Wash'n Com.), II., pp. 164, 165, 166, 167, 168, 169, 170-1. Ib. Id. Vol. I., p. 268.

Docs. Wash'n Com., Vol. II., pp. 181, 182. Vol. I., p. 268, Note 3. Netscher, pp. 372-374.

Ib. Id. Vol. II., pp. 192-199.

Blue Book No. 3. (1896) pp. 75-76.

Decs. Wash'n Com., 11., p. 243. But his whole course had been pointedly disapproved; nor did he ever allude to the subject again. After his dismissal from the service, in 1690, his successor never once alluded to it. Neither did the Directors of the Company ever once allude to it. Nor do the muster rolls of the Company's employés, complete from 1691 to 1703, show any "post" or other establishment on the Barima. Moreover, the Company's payrolls and those of the Essequibo Colony—complete from 1700 on, and which give full information as to every outpost and its employés—never once mention a Barima "post."

Even the river itself is never once mentioned in the records till 1717, and then only incidentally and by private parties. They had written to the Company complaining that whilst the colonists of Berbice and Surinam were permitted to trade wherever they pleased, "whether in Pumaron, Moroco, "Waini, Barima, Orinoco, or Trinidad," the Essequibo colonists were denied these privileges. But to infer from this that "Barima" was thought of as belonging to Holland, involves the inference that "Trinidad" was likewise so thought of, which absurd. Furthermore would be company's reply precludes such an infer-The complainants were granted permission "provisionally and until further "orders to barter" in each of these places "for copaiba," but "not for annatto," trade in that commodity being reserved to the Company alone. The complainants might "barter in the Orinoco" for "six red slaves "only, and no more"; but since trade in "red slaves," as we have seen, was carried on by means of the Caribs outside the limits of the Dutch colonies, and in territory deemed to be Spanish, neither could the Orinoco have been thought of as belonging to Holland.

The next mention of Barima was in 1722. The engineer, Maurain Sancterre, had been sent by the Company to plan the proposed new fort on Flag Island, in the Essequibo delta. He went beyond the scope of his instructions far enough to suggest that plantations might be established "in the rivers "Demerara, Pumaron, Waini, Barima and "all the creeks thereabout"; but the Company paid no attention whatever to these extra official and over zealous suggestions.

Twelve years more passed before another mention was made of the Barima. In 1734 the Spanish Governor of Orinoco sent to the Dutch Commandeur of Essequibo to buy supplies for a large body of troops which had just arrived in the Orinoco; explaining that they were to be used to prevent the planting of a Swedish colony in Barima. The Dutch Commandeur furnished the supplies as requested, receiving horses in part payment; but in reporting the fact to the Company he expressed a suspicion that the story about the Swedes might be a ruse of the Spaniards, whose augmented strength was, he said, alarming in view of the weakness of the Essequibo colony. He added, however, that as the Swedish colony was

Supra, p. 97, Note.

Docs. Wash'n Com., II., p. 248.

Docs. Wash'n Com., Vol. II., pp. 257-266. "prevent it."

was not wanting in plausibility; for, only two years before, a Swedish skipper who had put in at Essequibo, was to return (so it had been reported), "in order to take "possession in the river Barima, of a tract "of land which the King of Spain had "given to the late Elector of Bavaria, then "governor of the Spanish Netherlands, and "which the Elector has [in turn] presented "to the King of Sweden." But in any event, the Commandeur urged, troops should be sent to Essequibo, for "if the Swedes "should undertake to try to establish them-"selves between the Orinoco and this Colony "on your territory, it would be my duty to

to be "situated between the Orinoco and the Company's post at Wacupo," the story

Ib. Id. pp. 262 et seq.

It is manifest from this, as well as from the whole context of the Commandeur's letter, that he did not consider the Barima region as belonging to the Company; but that he feared if the Swedes should be prevented from settling there they might take it into their heads to go further east and trespass upon the Company's territory. This is the natural and plain import of his letter. Otherwise, why was there never a word of protest by the Dutch, either against the original Spanish grant or its subsequent transfer, or even against the claim implied by the importation of troops for the forcible exclusion of the Swedes? And why, furthermore, was there no reply from the Company as to this apprehended Swedish colony in Barima, nor any communication made about

it to the States-General? As a matter of fact the Swedes never came, and the Barima region continued under Spanish dominion and jurisdiction, as it had always been.

The next mention of Barima occurs in Director-General Gravesande's letter of April 1, 1744, addressed to the Company. A number of runaway slaves had banded themselves together beyond the western frontier of the Essequibo colony, and Gravesande "with great difficulty," as he says, had "induced the Caribs of Barina to attack them." The Indians killed the runaways and brought their right hands to the Director-General, who, as he confessed, "caused them to be nailed to a post as a warning to others." Elated at receiving their reward for this ghastly service, and doubtless exhilarated by Dutch rum, the Indians "offered to answer for all the runaway "slaves of this [Essequibo] Colony who make "their way toward Orinoco" if the Dutch would "establish a postholder in Barima." "This," continued Gravesande, "would be "of great utility for the buying up of boats "and slaves; but I have not ventured to "undertake it without your orders."

But why, it may be here asked parenthetically, did these Carib Indians want a Dutch "post" established in their midst? The reason is not far to seek if we but recall the fact that "rum was always on tap" at Dutch posts, and nominally free to every Indian who called; and that "the persuasive power of Dutch rum" is attested not only by the frequent complaints of the

Dutch Arch. (Docs. Wash'n Com.), Vol. II., pp. 202, 203.

Docs. Wash'n Com., Vol. I., p., 275. Note. Vol. II., p. 303. Spanish Mission Fathers, but by the accounts passed between the several post-holders and the Company's plantations. "Rum and molasses" were among the recognized necessities of the postholder or outlier whose business it was to stir up the Caribs to the trade in annatto and "red slaves."

Does. Wash'n Com, II., p. 304.

Ib. Id. No. 153.

Ib. I., p. 276.

Ib. Id. p. 277, loc.

Under date of August 24, 1744, the Company replied to Gravesande that "as for es-"tablishing a postholder in Barima for the "purposes stated" [in his letter of April 1st of that year], they were "not adverse to" his "making a trial"; cautioning him, however, against frauds that would be likely to result from it. But, up to March 19, 1746, as we learn from Gravesande's letter of that date, no post had been established there; while in the subsequent letters of the Company the subject of a Barima post is completely ignored. Nor was it ever again directly mentioned even by Gravesande himself; and his frequent incidental allusions to the Barima river, during the remainder of his long term of office, are of such a character as to absolutely preclude the existence of a Dutch post there. And what is more conclusive on this point is, that not one of the muster or pay-rolls of the Company, which were sent home regularly year after year from that time on, makes any mention of a "postholder," "outlier," "visitor," or other servant of the Company anywhere in Barima. Of course the post had not been established. The scheme never begun, had been abandoned even in thought.

How the Myth Originated.

But before attempting to account for the story that there had existed a Dutch "post" in Barima at some earlier time, let us see how that story was regarded by Gravesande himself. It reached his ears for the first time, it seems, in 1748. In his letter of December 2d of that year, after expressing his wish that he might know "the true boundary" of the colony, he says:

"According to the talk of the old people and of "the Indians, this jurisdiction should begin east "of the creek Abary, and extend westward as far "as the river Barima, where in old times a post "existed; but this talk gives not the slightest certainty."

Later on, he inserted a mention of this "talk" in a sketch map which he prepared for the Company; and again in 1761, he mentions that "some very old Caribs," had told him they could remember a time when the Company had a "post" in Barima.

Such was the beginning of the story. Now let us observe its growth into a "tradition." Attaching little or no importance to it, Gravesande nevertheless reported it to the Company, and also inserted it in a note to a sketch map of the Colony which he likewise transmitted. This made it of record in the Dutch archives. Twenty years later, in 1770, Hartsinck, the Dutch historian, who had access to the records, took it from Gravesande's map and letters, enlarged and embelllished it, and gave it wide circulation. Twenty-eight years after this, in 1798, Bouchenroeder copied it from Hartsinck

Does, Wash'n Com., II., p. 322. Blue Book, No. 3, p. 90.

Does, Washin Com., Vol. IV., Atlas, No. 60,

Blue Book, No. 3. p. 117.

Does, Wash'n Com., Vol. I., p. 278 Vol. II., pp. 456-457. Hartsinek, Beschryring van Guiana, I., p. 257. Does. Wash'n Com. I., p. 278. and incorporated it in his map of Dutch Guiana. If he transposed the geographical positions of the rivers Barima and Amacura, giving the latter the place of the former, and vice versa, he was in this, as in his story of the "ancien poste Hollandaise," a mere copiest, and the one error was about as grotesque as the other. Thus it was through Hartsinck and Bouchenroeder that the "tradition" became general. It all started from the idle story by an old Carib Indian and his associates, who had tried to induce the Commandeur of Essequibo to establish a rum shop somewhere on the upper reaches of the Barima river.

But how about the story itself, in the original form in which it first came to Gravesande's ears, in 1748. If, as Lord Bacon has somewhere said, and as has been so often substantially repeated by others since his day, every myth is but "the shadow of some forgotten fact," and "every falsehood contains a soul of truth," this Indian story can hardly be held an exception. It must have had at least some foundation. What, then, was that foundation?

The attentive reader can hardly have failed to anticipate the answer. The period subsequent to 1700, as Professor Burr well points out, may as well be dismissed from thought at once. There was no "post" or other Dutch establishment in the Barima after that date; the muster and pay-rolls of the Company and of the Colony make that certain. Nor could there have been one there at any time during the fifteen

Docs. Wash'n Com. I., p. 278. years prior to that date; the silence of the records, and the known relations of the French with the Barima from 1684 on, make that equally certain. Moreover, the language of Commandeur Beekman in 1683-4, urging the Company to take that river into possession, shows that he had never heard of any tradition of an earlier "post" there. The Indian's story, then, could have had no other foundation than the fact that an employé had been stationed there by Beekman himself during the dry season of 1683-4, and that he had caused to be built there a "little shelter" for occasional "visits" during the rainy season.

From 1684, date of the erection of Beekman's "little shelter," to 1748, when the "ancien poste" story first reached Gravesande, gives a period of 64 years; so the old Indian who related the story either never saw the "little shelter" at all, or else saw it only as a very young lad. If he never personally saw it, then his evidence is only hearsay and practically worthless as Gravesande himself intimates. If, however, he saw it as mere lad, then what was more likely to have impressed itself upon his memory was not the duration or frequency of a Dutch outlier's visits, but "the presence there of a white man's shelter or its ruins," which greeted the boy's eyes "as he paddled through the familiar recesses of his home stream." And if to this circumstance be added the probability that, during the visits of the Pumaron outlier, his conduct was not unlike that of outliers or Supra, pp. 127-128.

Ib. Id.

Docs. Wash'n Com., Vol. II., pp. 159-322.

Docs. Wash'n Com. (Prof. Burr's Rep.), Vol. I., p. 279.

postholders in other places; that he was similarly equipped with a supply of Dutch rum, and with the Company's wares; that he was buying up annatto and other Indian products in the name of the Company, and in the Company's name had warned off the Surinam traders; and that the Indians could not possibly have known he was there without the Company's authority or sanction. and that his visits had been discontinued in consequence-if all these reasonable probabilities be considered in connection with the "little shelter" of the white man which the boy had seen falling into decay or was already in ruins, we have an adequate basis for the later tradition that there once existed a Dutch "post" there.

So much, then, for this Indian story or "tradition," whereof we have heard so much during the past dozen years in justification of the monstrous claim by Great Britain to the Orinoco mouth. Of course any claim to title which has no better foundation, must be dismissed as worthless. Let us see, then, what other grounds there may have been for this claim to Barima.

The Circumstance of Dutch
Passports to Barima.

Under date of
April 14, 1753,
Director-General

Gravesande informed the Company of a rumor current in Essequibo, that Swedish emissaries had "arrived in Surinam to make "enquiry respecting the river Barima * * "in order to bring over a settlement there." While he hardly credited this story, there were, he says, "many circumstances" con-

Docs. Wash'n Com. (Dutch Arch.), Vol. II., pp. 340-341. nected with it which caused him anxiety; "wherefore," he writes, "I urgently re"quest that I may be honored with your
"orders how I am to conduct myself in
"that case."

It would be an unwarranted inference to conclude from this that even Gravesande regarded the Barima as Dutch territory. But, whatever he may have then thought, it seems that four years later, in 1757, he was very decidedly of the opinion that the Barima was Spanish territory.

In his letter of February 15th of that year, he informed the Company that complaints from the Spanish Governor of Orinoco had frequently come to him "concerning the evil conduct" of Dutch "traders or rovers in Barima"; and that he had "written circumstantially about it to the ad interim Governor" in Surinam (Mr. Nepvue), whose reply he was then awaiting. Seven years later, on the 18th August, 1764, he addressed another letter to the Surinam Governor in which he calls that official's attention to the fact that the naming of the river Barima in passports given to Dutch traders had caused "complaints from "the Spaniards, who, maintaining that that "river is theirs, wherein I believe they are "right, have already sent some of these "passes to the Court of Spain." In order to avoid this cause of complaint, or giving umbrage to the Spanish authorities, he suggests that in all passports "only permission 44 to pass the posts and to go among the Indians to trade" be given, "without naming any place."

Ib. Id. pp. 372-373.

Ib. Id. p. 403.

It is very manifest from all this, (1) That the Spaniards had unequivocally asserted supervision and control over the Barima region; (2) That Gravesande, being well aware of this, had nevertheless, made no complaint or protest; (3) That he believed the Spanish claim to the Barima a just one; and (4) that, acquiescing in that assertion of claim, and in order to give no further cause of complaint, he suggested that, in all passes given to Dutch traders, the name "Barima" be prudently omitted.

"Such being the Essequibo Governor's attitude," remarks Professor Burr, "it was unlikely that he would encourage Dutch settlements in the Barima." And as a matter of fact, down to 1764, no Dutchmen had ever been there save for purpose of trade only.

Dutch Claim to the Barima.

On the 6th of April 1766, Director-Genera, Gravesande complained to

the West India Company that a gang of disreputable colonists of Essequibo ("ragtag and bobtail," as he described them) had taken up their abode in Barima under various pretexts, such as "fishing, trading, and lumbering," and were making the place "a den of thieves." As the left or west bank of that river was, he said, "certainly Spanish territory," he wasgoing to ask the Governor of Orinoco to join him in breaking up this "den," or to permit him to do so, or to suggest some other plan to that end.

Recurring to the same subject, in his

7b. Id., Vol. I., p. 283

Dutch Arch. (Docs. Wash'n Com.), Wol. II., p. 414.

letter of March 20th, 1767, in which he advises the Company that he had sent an officer there to arrest the evil-doers, he says: "We and the Spaniards alike regard the "river Barima as the boundary division be-"tween the two jurisdictions, the east bank "being the Company's territory and the "west bank Spanish." Fearing, however, that his envoy might go to the west bank also, he says he gave the Spanish Governor "a circumstantial account of this matter "and asked him whether he cared to send "some men, in order, hand-to-hand, to clear "out this nest." The Orinoco Governor, however (as Gravesande savs), sent only an oral message to just go ahead and "collar" the miscreants. Whereupon the Moroco postholder was sent there under strict orders not to set foot on "the Spanish bank of the river"; but "as to the islands lying in "the river, not to avoid these, because they "were uncertain territory." These orders. says the Director-General, were faithfully obeyed, the ringleader (one van Rosen by name) "being apprehended on our shore."

After having been tried by the authorities in Essequibo, this van Rosen was banished from the Colony; but what became of his associates is not stated. It is mentioned, however, that the Essequibo court issued a general order positively forbidding all colonists to sojourn "in Barima," lest it should "expose us to the danger of getting "mixed up in a quarrel with our neighbors "the Spaniards."

Now, from all this it appears,

Ib. Id. pp. 425, 426.

Ib. Id.

Ib Id.Vol. I., p. 284,-Vol. II., p. 415. Ib. Id. Vol. IV., Atlas, Maps No. 1-10.

Supra, pp. 13-18.

Dutch Arch. (Docs. Wash'n Com.), Vol. II., pp. 305, 308-9, 311, 347-8.

- 1. That only "the river Barima," from its mouth upwards, was under consideration. The Caño Barima, or "Barima Pass," as it is sometimes styled, into which that river disembogues, and which, as we have seen, constitutes the eastermost estuary of the Orinoco, was in no way involved. But even if it had been, neither Point Barima nor Barima Island was included in Gravesande's claim, because both being on the west or left bank of the channel, were, according to his own statement, on the Spanish side of the line.
- 2. That even with respect to the "river Barima," which is so specifically named as to exclude all thought of the $Ca\bar{n}o$ Barima, we have only Gravesande's unsupported opinion that its east or right bank was Dutch; and that opinion, we may remember, was in conflict with his own admission elsewhere made, that he did not know where the boundary was.
- 3. That equally unsupported by evidence, either cited or produced by him, is his ex parte statement that the Spaniards regarded "the river Barima" as the "dividing line between the two jurisdictions." And finally:
- 4. It nowhere appears that either the Dutch West India Company or the Dutch Government ever accepted or acted upon this opinion and *ex parte* statement of the Director-General.

Such being the facts in relation to the Director-General's claim to a part of the Barima region, let us now carefully note the sequel, for that tells the whole story.

Despite the order of the Essequibo court forbidding any colonist to even "sojourn" in Barima; despite the express injunction by the Director-General himself not to settle anywhere "between Essequibo and Orinoco"; and despite the fact that this injunction had been inserted in a passport given to one La Riviere, an Essequibo colonist, that person, nevertheless, went thither with his slaves and family, established himself there, died there soon afterwards, and left his estate to his widow. Early in the spring of 1768, when the Spanish authorities at San Thomé heard of this, they sent a coast guard vessel to "warn off the foreigners" and purge the whole region. This Spanish force sailed up the Barima river, destroyed all the buildings and plantations found on either side, and confiscated all movable property which the Dutch squatters had left behind them. The widow La Riviere returned to Essequibo, but what became of the others (if indeed there were any others) is not known.

Here, then, was an official, open and unequivocal assertion of Spanish dominion and jurisdiction over both banks of "the river Barima," from its mouth to its uppermost reaches. Of course the Dutch authorities at Essequibo, of which Gravesande was still head, could but know this, for the widow La Riviere had fled thither and told her story. And yet, to adopt the cautious language of Professor Burr's report, "of" protest by the Dutch authorities there "seems to have been no thought," and

Ib'. Id. Vol. 11', pps. 452, 453.

Span, Venez, Docs, 'Arch, de las Indies), Vol. 1., pp., 231-234;

Ib. Id. Vol. I., p. 286

Ib. Id. p. 289.

Ib. Id. p. 290.

Does. Wash'n Com. Vol. I., p. 289.

"never again," he continues, "is there any "mention in Dutch documents of the stay " of any Dutchman" anywhere in the Barima region. Never again did the aggressive Gravesande suggest the "river Barima" as a possible boundary line "between the two jurisdictions," and never afterwards was a Dutch trader heard of in that river. Nor is the Barima once mentioned as a possible frontier line in the Remonstrance of 1769, addressed to the Court of Spain by the Dutch Government. So the claim to that river as a boundary, never indeed madeexcept by a subordinate, was now abandoned even by him, and the Spaniards, who had never renounced their claim to that river, remained in full and undisputed possession.

Nor was this condition of affairs everchanged by subsequent events. From this time forth the Dutch records are significantly silent as to the Barima region .. In their Remonstrance of 1769, just referred to the Dutch Government not only prudently avoided any mention of the river Barima as a possible boundary, but were equally careful to avoid any mention of the Caño Barima in that connection. They cautiously and vaguely describe their claim as merely extending "to beyond the Waini." And even this modified but vague and indefinite claim was subsequently abandoned; for when the Spanish Government refused to consider the Dutch complaint, but justified the action of the Orinoco authorities on the ground that thewhole Northwest Coast Region belonged to Spain, the Dutch acquiesced. Moreover, from this time forth the Colonial trade between the Essequibo and the Orinoco, hitherto encouraged by the Dutch Government, was now completely reversed, it being carried on, not by the Dutch from the Essequibo to the Orinoco, as formerly, but by the Spaniards from the Orinoco to the Essequibo.

Thus the ephemeral and ex parte claim to the Barima river as a boundary, made by a subordinate of the West India Company, became a thing of the past. It was Hartsinck who revived it by resurrecting the old Indian's story which Gravesande had made of record in 1748; and this revival of the "ancien poste" myth of Barima found recognition first in 1783 on an English map made from the observations of Thompson, and second adopted by Bouchenroeder in 1798.

But this revival of the old story, while it did not alter the facts in the case, led to another very significant incident which deserves notice in this connection. In 1801 a "Confidential Agent," who had been sent to represent the Dutch Council of the Colonies at the Congress of Amiens, was instructed to try to have the Colonial boundary defined as being at the Barima river, if indeed he could not do still better by having it defined at the Orinoco mouth itself. The Agent, however, explained to his principals that he found it unwise to even mention the subject. So he prudently

Docs. Wash'n Com., Vol. II., p 394. Br. Blue B., pp. 119-616.

Beschryring van Guiana, I., p. 146. Docs, Wash'n Com., Vols, III. and IV., Maps 43, 46, 70.

Supra p. 136.

Docs, Wash'n Com., Vol. I, p 290 and Notes, Vol. II., pp. 639, 644, 645-647. kept silent. He furthermore reported that the only way to extend the Dutch boundary westward was by "purchase" from the Spaniards; but that even such a proposition as that would be both delicate and hazardous.

That was the end of it. The negotiations looking to an extension of the Dutch possessions were never undertaken; and in 1803, when the English again came into military possession of the Essequibe Colony, its most westerly outpost was still on the east side of the Moroco, near its mouth. course the alleged "marking out" and apportionment by the British during their prior military occupation of the Colony in 1796-7, of all the lands from Essequibo to Point Barima, even if true, amounted to nothing. By a well known principle of public law, the British could return the Colony to its owner only as they had found it. They could have neither enlarged nor contracted its boundaries. during their military occupancy, they made an unjustifiable aggression upon adjacent Spanish territory at a time when Spain was not in a position to promptly resent it, that fact could not change the law of nations ; and there is no principle of international law which admits the right of a belligerent to alter the boundaries of a province or State captured and held prior to final settlement of peace. Moreover, it appears from the proceedings of the Council of the American Colonies and possessions of the Batavian Republic, in the early part of the year

Blue Book No. I. (1896) p. 19.

Docs. Wash'n Com. (Dutch Archives), Vol. II., pp. 659, 660, 661, 1803, and before the Colony again fell into the hands of the British, in September of that year, that the Dutch knew nothing of this alleged "marking out"; or if they did, that they wholly ignored it as irrevelant, legally monstrous, and of no practical effect whatever.

Testimony of British Official Documents.

In 1827, thirteen years after the final cession

of Essequibo Colony to the English, the situation had not materially changed, except that the old Dutch outpost on the coast, on the east side of the Moroco, appears to have been abandoned. It appears, also, from an official dispatch from Governor D'Urban to the Home Government, dated October 18th, 1827, that there was not a single Dutch or English settlement or other establishment west of the Pumaron river, which, as late as September, 1838, Governor Light declared to be the western extremity of the Colony.

It was only about eighteen months before this, in May, 1836, that the British Government formally requested, through its diplomatic agent at Caracas, that Venezuela would establish a lighthouse and buoys, and an improved pilot service, in the main or eastern mouth of the Orinoco, and thence upward by way of Point Barima and the mouth of the Barima river to the Amacuro and beyond; thus showing that, up to that time at least, there had been no question as to Venezuela's title, either to the eastern estuary of the Orinoco

Prof. Burr's Rep., Vol. I., p. 291. Note.

Parl. Papers, Sess. 1828, Vol. 23. App.

Ib. Id., 1839, Vol. 35, p. 424.

Official Hist. Dis., etc., pp. 2, 3, 4 and 5.

Parl. Papers, "Accounts, Railways," etc., Vol. 63. App.

Off. Hist. Dis., etc., pp. 33-38.

Parl. Papers, "Accts. Post Offices, Railways, Shippers, Docks and Harbors, Lighthouses,"etc., Vol. 53. App.

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or to Barima Point, or to Barima Caño, or to either of the rivers Barima and Amacuro.

In 1846, so far from having made any advance westward, the British had practically abandoned even the Pumaron; for their settlements did not then extend more than midway on the coast between the Essequibo and Pumaron. This is clearly shown by an official map of "the settled districts," as compiled from the manuscript "map of British Guiana, by permission of "the author, Sir Robert Schomburgk, "October, 1846," and published by authority of the British Parliament in 1847.

Nor had there been any material changes as late as 1850, when the mutual pledge was given, by exchange of diplomatic notes, not to occupy or attempt to occupy any portion of the territory in dispute. Venezuela had already, in compliance with the request made in 1836, established a Lightship, buoys, and pilot service at the eastern mouth of the Orinoco, and thence upward to Point Barima and beyond to the Amacuro. And that this Light-ship was still there in 1850, is shown even by British official publications. Thus, in volume 53 of the Parliamentary Papers, "session 31st January to 15th August, 1850," is an official map showing all the Lighthouses, Light-ships, &c., in the West India Islands and on the northern coast of South America from the Isthmus to the Essequibo, on which all "British" Lights, &c., are designated in red. and all "Foreign" Lights, &c., in black. But precisely in the eastern mouth of the Orinoco, near by Point Barima,

there is marked on this map a Light ship or "floating light" with attendant buoys designated in black, that is to say as "toreign" or Venezuelan.1

This, however, merely corroborates what we know from Venezuelan official sources. The Republic not only had a Light ship, buoys, and a regular pilot service there in 1850; but these evidences of Venezuelan sovereignty and jurisdiction were there, intact, 23 years afterwards, in 1873, and from that time on till 1884, when the British took forcible possession of Barima Point, expelled the Venezuelan officials, and usurped jurisdiction there. And it was this very act of violence and usurpation, as we may remember, which led to the diplomatic rupture of 1887.

Docs. Wash'n Com. Vol. II., pp. 674,

Ib. Id. Vol. IX See also Caracas Brief, "Part IL"

Shown by the Acts of the Parties.

From the foregoing De Facto Boundary as brief, but necessarily tedious, review of the acts of the parties from

1648 to 1814 the following facts are manifest:

1. That at the date of the Treaty of 1648, and for a full decade thereafter, the Dutch held no possessions in Guavana except in the Essequibo. And their establishment there was not in any sense a Colony with outlying territory; but only a mere post for traffic with the Indians, and consisted of a few unmarried employés of the Dutch West India Company, housed in

I The writer is indebted to Mr. P. Lee Phillips, expert cartographer, of the Congressional Library, at Washington for this official publication by the British Government.

a little fort on an island at the junction of the Cuyuni and Mazaruni, near the left bank of the Essequibo.

- 2. That Dutch colonization did not really begin there, nor elsewhere on the northern cost of Guayana, till about 1657-8, when a new settlement was planted in the Pumaron. This settlement was broken up and destroyed, first by the English in 1665-6. and again by the French in 1689, and was never afterwards re-established. The river. however, continued to be claimed by the Dutch West India Company, which kept up an outpost there for traffic with the This outpost or trading station Indians. was atterwards removed, first, to Wacupo creek, an affluent of the Pumaron on its western side, and then to the right or east bank of the Moroco, some 16 miles inland from the coast; and finally down to the coast on the same side of the Moroco at its mouth, where it remained till the military occupation of the Essequibo Colony by the English in 1796. It was found in ruins, however, when the Dutch resumed possession in 1802; nor had it been re-established in 1803, when the English again took military possession of the country. Nor is there any evidence of its subsequent re-establishment by the English, either before or after 1814.
- 3. That there was never, at any time, a Dutch settlement, outpost or trading station, grant of colonial lands, or other evidence of Dutch occupation or sovereignty west of the Moroco river; and that

subsequent to the Expulsion (from the Cuyuni-Mazaruni Region, in 1758-1771, and from the Northwest Coast Region, in 1768), the Dutch Government by acquiescence in the result, tacitly acknowledged the Moroco river, and the water-parting thence across to the lower Cataracts of the Cuyuni and Mazaruni, as the de facto boundary line between the two jurisdictions.

- 4. That the alleged "ancien Dutch poste" in the Barima, which Schomburgk" imagination magnified into a "Dutch fort," never had an existence: the only foundation for the story being Commandeur Beekman's improvised "little shelter," placed there in 1684, for the accommodation of the Pumaron outlier during his contemplaced "visits" in the wet season. Commandeur Beekman's action not being approved, the Pumaron outlier's "visits" were discontinued, and the "little shelter" was abandoned. Nearly half a century later, in 1744-8, the establishment of an outlier's post or lodge in that river was again suggested, and this time provisionally approved by the West India Company: but no post or outlier's lodge of any kind, was ever established there.
- 5. At no time did the Dutch ever attempt to plant a settlement above the lower Cataracts in the Cuyuni and Mazaruni; nor in the Barima region, nor elsewhere on the coast west of the Moroco. In 1766 a gang of Dutch thieves and smugglers was dislodged from the Barima by the Esse-

quibo authorities, not however till after permission to that end had been granted by the Spanish Governor of Orinoco. In 1768, when some other Essequibo colonists had settled there in defiance of their own Colonial authorities, they were driven out, and their plantations destroyed by the Orinoco Spaniards without the semblance of complaint or protest either by the Dutch West India Company or by the Dutch Government.

6. That whilst both Spain and Venezuela have persistently contended that the Essequibo was and is the de jure boundary, nor ever recognized any de facto boundary west of the Moroco, neither Holland nor Great Britain ever formulated a definite claim to any boundary line. In 1674 when the new West India Company took over the assets of the old Company, which had owned and governed all the Dutch colonies in Guayana, the only possessions mentioned in the deed of transfer were "the places of Essequibo and Pumaron;" but the boundaries of those "places," left undefined alike bv the Charter and by the new Company itself, remained undefined. For although the Remonstrance of 1769 seemed to imply some definite claim to boundary, the boundary is vaguely described as extending "to beyond the Waini," on the coast, and in the interior to a point "between" the destroyed Dutch "post" in the Cuyuni and "the nearest Spanish Missions"; this claim was voted by the Spanish Cabinet to be

"frivolous" and "unfounded," and as the Dutch Government acquiesced in that decision the claim was abandoned.

Thus much, then, for the acts of the parties themselves; acts, which as we have seen, when taken in connection with the peculiar topographical conformation of the country, so unmistakably indicate a de facto boundary line that its specific mention seems almost superfluous. For the attentive reader can hardly have failed to recognize that line as beginning on the coast at the mouth of the Moroco river; as extending thence up that river to the source of its main affluent, the Manawarima creek; as extending thence along the water-parting between the two delta regions of the Orinoco and Essequibo, to the eastern spur of the Imatacas; and thence, without crossing a single stream or mountain ridge, to the outer eastern rim of the great Interior Basin of the Cuyuni-Mazaruni; and so along the southeastern crest of that rim to upper Essequibo. It only remains, then, to be considered how far under the rules of the present Treaty, and by the principles of international law applicable to the case, that line may now be deemed a de jure boundary.

PART IV.

PRINCIPLES OF INTERNATIONAL LAW APPLICABLE TO THE CASE.

Original Acquisition

By the law of nature, as by the Roman law, whence are derived the elementary

principles underlying the whole doctrine of original Acquisition, he who first reveals or makes known a thing, previously existing but not hitherto perceived by or known to others, is said to be its first discoverer; and since the thing thus discovered has no owner, the *right* to reduce it to possession, to use it, to own it, to exercise dominion over it, is with the first discoverer exclusively.

But this right is not translated into perfect title until the discoverer actually and corporeally takes the thing into possession with the desire and intention to make it his own; and this must be done within a reasonable.time. What may be deemed "a reasonable time" will, of course, depend upon the conditions and circumstances in each particular case.

If the discoverer merely retains the thing, without the desire and intention to make it his own, he may be said to be in possession, but only in "a gross and incomplete sense"; for there must be a union of act and intention to make the possession complete. Neverthless, the *inchoate* title of the discoverer holds as against a second comer so long as the detention actually con-

Phillimore, Int. Law, I. CCXXII. tinues; and from this condition, the "desire and intention" to make the thing his own, may be reasonably inferred.

If the discoverer retains the thing in the belief that he is the first discoverer, and therefore the rightful owner, though in this he be mistaken, and he be not the rightful owner, he may nevertheless, under certain conditions and qualifications, acquire title by the operation of time, that is by prescription.

There are, then, three kinds of possession, each derived from the law of nature and supported by the old Civil law, namely: 1. Natural possession, which consists in the bare seizure and detention of a thing res nullins; 2. Legal possession, properly so called, by act and intention; and 3. Possession by operation of time or by prescription.

The first named gives incipient or inchoate title, to be perfected by its union with desire and intention, expressed or implied. The second unites all the ingredients of good and perfect title. The third gives good title in so far only as it creates a presumption, equivalent to proof, that good title exists, derived from higher sources; and it destroys title only so far as it creates a like presumption that title has been transferred or abandoned.

Nature of Prescription.

It is manifest therefore that what we call Prescription, independent of legislation or of positive agreement, gives only presumptive title. It neither creates nor

Ib. Id

Whart. Dig. Int. Law, I. § 2.

To. Id.

destroys title. It is only evidence and nothing more. It creates a presumption, equivalent to full proof, that good title exists, the origin of which has completely faded from human memory. But it differs from full proof in this, that whereas full proof is conclusive and final, prescription is conclusive only until met by counterproof or by a stronger counter-presumption.

According to English jurists, prescription is "the limit of time within which one may acquire certain legal rights by use and occupation, by reason of the want of vindication of such rights by some other person who has failed or neglected to put his legal remedies in force." This is the generally accepted definition; but in practice it has a more restricted meaning. For in England prescription is confined to a certain class of rights, such as rights of way, of watercourse, of fishing, shooting, etc.; and in each case the use must be without dispute, that is to say uninterrupted and peaceful.

In most of the States of the United States, Prescription applies (as in some other countries) to all property rights, real, personal, and incorporeal. But, to be valid, the possession must not have originated in violence or fraud; must have been peaceful, public, continuous, and exclusive; must have been accompanied by a bona fide claim of right; and, in some cases, there must have been actual notice to the adverse party. And, with respect to lands, the possession must have been evinced by some

Blacks. Commen.

mark or inclosure, or by cultivation, use, or occupation so open and notorious as to attract the attention of every adverse claimant. It must likewise have been so exclusive as to prevent actual occupation by another.

With respect to title by original discovery and possession, there has never been any question as to its application between nations as between individuals; and it applies to all territory not previously held by a civilized State. This principle, as we have already seen, was introduced into the law of nations both theoretically and practically as early as the sixteenth century, in order to settle disputes among the maritime nations of Europe with regard to their respective possessions in the New World.

At first, European powers seemed disposed to recognize discovery alone as sufficient to create good and complete title. But in the course of time the doctrine prevailed that discovery must be supplemented by some formal act of taking possession; by some expression of the will of the State. That is to say, there had to be the union of act and intention. And the act of discovery, as well as the subsequent act of intention by taking possession, had to be made in the name and by the authority of the Government, or be subsequently ratified by it. In the sixteenth century, as later on, it was usual to signify this intention of taking possession by the erection of a cross, by hoisting the national flag, by

Supra, Part II.

Vattel, B. I. §207.

written or oral proclamation, or by any ceremony of clear import done on the spot and in a public manner.

The territories thus sought to be reduced to possession, had to be res nullius—that is to say, they must have been no part of the possessions of a civilized State. It was not necessary that they should be uninhabited. We have already seen that tracts inhabited or roamed over by savage tribes were deemed res nullius, and were legally appropriated by European powers. Sometimes there was a pretence of compensation to the natives, but generally with no regard whatever for their claims or wishes. The rights of the natives were held to be moral, not legal. International law knew nothing of them, though international morality might require that they be treated with consideration.

Such was the law when the continent of America was being portioned out among the civilized States of Europe; and this apportionment was fully ratified, first by the celebrated Monroe Declaration of 1823, in which England participated, and in which the other European powers acquiesced, and again towards the middle of the nineteenth century when the treaty of 1846 divided the great Northwest between the United States and the British empire. So that from 1823, or at farthest from 1846, onwards every foot of ground in the New World was deemed to be part of the territory of some civilized State, and no Power was free to obtain fresh possessions by occupation.

Supra, Part II.

Prescription as Applied to Nations. But just how far, it at all, the principle of prescription is appli-

cable between nation and nation has been a source of much controversy. Some eminent jurists, among whom was the learned German publicist, Klüber, who wrote late. in the eighteenth century, have denied; that it can have any place in international law. But this opinion is sustained neitherby the majority of recognized authorities, nor. by the general practice of nations. Gro-tius, Vattel, Wolf, Rutherforth, Burke, Wheaton, and Phillimore, not to mention. others little less eminent, all maintain that prescription, whether derived from the law of nature or from the Civil law, or whether adopted as a matter of public policy and convenience only, ought to, and does in. practice, apply between nations as between individuals.

Thus Vattel, who wrote in the middleof the eighteenth century, in his chapter on Acquisition, says:

"The tranquillity of the people; the safety of States -"the happiness of the human race, do not allow that "the possessions, empire and other rights of nations, "should remain uncertain, subject to dispute, and "ever ready to occasion bloody wars. Between na-"tions, therefore, it becomes necessary to admit pre-"scription founded on length of time as a valid and "incontestable title. If any nation has kept silence "through fear, and as it were through necessity, the "loss of her right is a mistortune which she ought "patiently to bear, since she could not avoid it; and "why should she not submit to this as well as to have "ber towns and provinces taken from her by an un-"just conqueror, and to be forced to cede them to "him by treaty. It is, however, only in cases of " long continued, undisputed, and uninterrupted posses-

Vattel, B. II, C., XI. §140. (Chitty's translation.) "sion, that prescription is established on these grounds, because it is necessary that affairs should some time or other be brought to a conclusion, and settled on a firm and solid foundation. But the case is different with a possession of only a few years' continuance, during which the party whose rights are invaded may from prudential reasons find it expedient to keep silence, without at the same time affording room to accuse him of suffering things to become uncertain, and of renewing quarterly without end,"

Wheaton, who wrote a century latter, says:

Wheaton, El'ts Int. Law. Pt. II., C. IV. §4.

"The writers on natural law have questioned how "far that peculiar species of presumption arising "from the lapse of time, which is called prescription, "is justly applicable as between nation and nation; "but the constant and approved practice of nations "shows that by whatever name it be called, the un-"interrupted possession of territory or other property "for a certain length of time by one State excludes "the claim of every other, in the same manner as, "by the law of nature and the municipal code of "every civilized nation, a similar possession by an "individual excludes the claim of every other per-"son to the article of property in question. This. "rule is founded upon the supposition, confirmed by "constant experience, that every person will "naturally seek to enjoy that which belongs to him, "and the inference fairly to be drawn from his " silence and neglect, of the original defect or his "intention to relinquish it."

Phillimore, Int. Law, I. And Phillimore, the great English jurist who wrote still later, maintains substantially the same position.

Prescription and usucaption have come to be almost synonymous terms. According to Vattel, "prescription is the exclusion of all pretensions to a right—an exclusion founded on the length of time during which that right has been neglected." And usucaption, according to the same author, is "the acquisition of domain tounded on.

Vattel, Law of Nations, Pt. II. C. XI. §140.

a long possession, uninterrupted and undisturbed—that is to say, an acquisition solely proved by this possession." Wolf defines usucaption as an "acquisition of domain founded on a presumed desertion"—that is, abandonment by a former owner; and this presumption of abandonment, he explains, is raised by a "long and peaceable possession by the actual occupant." The same author defines prescription as "the loss of an inherent right by virtue of a presumed consent"—the presumption of consent being raised by long-continued, uninterrupted, and undisputed possession. According to the Roman law, usucaption is the acquisition of domain by possession continued for a certain period of time prescribed by law that is by municipal law, which has no place in international law further than it may have been adopted by general consent. Prescription, then, usually implies everything expressed by usucaption, in so far as the principle of prescription may be applicable to international affairs. Both are merely presumptive evidence of title, and are conclusive only when there is no possibility of a stronger counter-presumption or of stronger counter-proof.

But, even according to its extremist advocates, the application of the rules of prescription to international cases can be fully justified only on grounds of expediency; as a matter of policy rather than of law or equity. The peace of society and the happiness of the human race require that the bona fide possessor, resting his title upon presumption, be not disturbed in his pos-

session; and since no nation can safely disregard such a principle without thereby impugning its own title, all nations are presumed to be parties to it.

Such is the gist of the argument in favor of the application of prescription between nation and nation. But what kind of prescription? All writers who advocate its application between nation and nation fail to specify any exact limit of time within which title may be established by posses-They even go so far as to say that to attempt such a specification, and to formulate it into a general rule, would be both impracticable and inexpedient. And this is about equivalent to saying that all ordinary prescription—that is, prescription short of immemorial time—is practically excluded from international law. For if there is no precise limit of time short of immemorial time that can give title, then only immemorial time can give title; and immemorial prescription can hardly be said to be prescription at all. Because, where the origin of a possession cannot be known -where it has been public, continuous, peaceful, and uninterrupted from time out of mind-the right of recovery by an adverse claimant is, of course, necessarily beyond all possibility. The title of the occupant is as though he had entered upon the lands res nullius, which, so far as can be affirmed to the contrary, actually may have been the case.

Holland not an Original Discoverer or Occupant. In the case before us, it has never been pretended that Holland, through which England

derived title, had many territorial rights in northern Guayana in virtue of original, authorized discovery. That much we presume, will be readily conceded. The Dutch were not only second comers, but the second The English, as we of the second comers. have seen, preceded them by three years; and the Spaniards preceded both by nearly a hundred. Moreover, the Spaniards were there and in full possession about eighty years before the Dutch had even a de facto national existence; for up to 1581 they had not declared their independence of the Crown of Spain. Up to that time they were Spanish subjects, and such title as their explorations and commerce could give was the King of Spain's title. Furthermore, their declaration of independence, first made in 1581, implied no claim to any territory outside the Netherlands. It was at least forty years later, in 1621, when the first Dutch West India received its Charter, before they ever dreamed of such a claim.

Nor were the Dutch the first occupants of any portion of the disputed territory. They were not the first occupants even of the Essequibo; for the Spaniards had preceded them there as actual occupants by at least thirty years. The very spot at the Cuyuni-Mazaruni junction, which was the first possession of the Dutch West India Company, and which afterwards became the nucleus of the first Dutch settlement, in

Supra, Part II.

Ib. Id.

Guayana, had been previously occupied by the Spaniards, who built a substantial stone fort there about 1591.

Spain was not only the original discoverer, but the first explorer of the whole of northern Guayana. She was the first to penetrate the interior; the first to establish and maintain settlements and fortifications there. It is a familiar fact of history that she discovered, took formal possession of, explored, subdued, and settled the northern part of South America as a whole. and as part of this work of exploration and settlement, she established and maintained early in the sixteenth century, an organized local authority on the Orinoco, dependent upon the higher Colonial officials at the larger South American centers. Prior to 1620, before the Dutch West India Company had come into existence, Spain had garrisoned settlements on the Orinoco which have never been discontinued; settlements, as we have seen, which grew and expanded until, by the middle of the eighteenth century, they had extended down to the alluvial and inhospitable swamps of the Orinoco delta, and in the interior to the very center of the great Basin of the Cuyuni-Mazaruni.

Spain the First Not only did Spain hold to Occupy. the inchaate title in virtue of first discovery; not only did she have the exclusive right to occupy, but within "a reasonable time," and indeed before others had come there, she supplemented that title by actual physical possession and per-

Ib. Id. Part II.

Ib. Id.

manent settlement; thus uniting all the three essential ingredients of perfect title—discovery, possession, and settlement. She possessed northern Guayana as a whole; possessed the present disputed territory as a whole; possessed it in the same sense in which she possessed New Granada or Ecuador or Peru or Central America or Mexico as a whole.

True, her towns and settlements were not contiguous in any of those countries. There were in all of them vast stretches of intervening territory inhabited only by native savages. Such districts exist even to-day. They exist in Venezuela. They exist in Colombia and Peru. They exist even in the United States of North America. And in some of those countries the savage occupants continued to assail and murder the white settlers up to the beginning of the present century; just as they did in the United States up to a time within the memory of the present generation, and as they do still in some other countries. But it will hardly be contended, in view of the settled rules of international law and of the universal practice of nations, prevailing then as now, that such a condition of affairs militates against the title to the country as a whole. It will hardly be contended at this late day that the title of the occupant nation is limited to the particular spots settled by it; that its right of domain is confined to its actual towns and villages, leaving the intervening stretches of country res nullius and open to acquisition by other nations by mere occupation, or by treaties or pretended treaties with the savage occupants, who are incapable of making title.

It is a familiar maxim Attributive of the law, no less than Possession a self-evident proposition, that what is possessed as a whole, is possessed in every part; and by a cognate principle, the establishment and maintenance of a permanent and growing settlement by the discovering nation or its legal successor may, and usually does, constitute attributive possession of the adjacent vacant territory. In the same manner, the cultivation of a part of a well defined tract in the name of the whole, if it has no other actual occupant, is deemed in law to be possession of the whole. Even the advocates of the British claim invoke this principle, but strangely misapply it. For we read in the British Blue Book, "Venezuela, No. 3 (1896)," page 1, that,

"The territory which belongs to a nation in a "country sparsely populated is not confined to "the spots or areas which have themselves been "the subject of occupation. It is well established by the law of nations that the extent of the territory to which a nation can justly lay claim depends upon a number of considerations. Regard must be had to physical features of the "country itself, and to the question whether the situation and character of the areas occupied would enable the nation to which the occupants belong to control the adjoining district, and to prevent, if necessary, hostile aggression."

This is good law; the principle is too well settled to be a matter of controversy; but it does not fit the British case. For whilst the principle of contiguity or attributive possession is applicable to the

first discoverer and occupant of terras nullius, it cannot apply to second comers or disseizors. The Dutch, as we have seen, came to Guayana not as original discoverers and occupants, but as disseizors; and as disseizors, their title, except in so far as it may have been confirmed by subsequent deed or treaty, is a title by prescription only, and its territorial extent must be judged by the rules which apply to prescription. And even if those rules were sufficiently elastic to be made to comprehend any adjacent, unoccupied territory that might be deemed essential to the reasonable expansion of a disseizor's settlement (which is not the case) they would still be fatal to the British claim. For while the Delta region of the Orinoco, and the great Interior Basin of the Cuyuni-Mazaruni, are both indispensable to the convenience and safety of the Spanish (now Venezuelan) settlements on the Orinoco, neither of those tracts is essential either to the convenience or safety, much less to the reasonable expansion, of the Dutch (now English) settlements on the Essequibo.

But, quite independent of these considerations, is the fact that for more than half a century prior to 1811 (when Venezuela succeeded to title) Spain, reaching out from her actual settlements in Guayana, exercised effective political control over these intermediate, uninhabited districts. We say "political" control, because Spain, as we have seen, effectively excluded the Dutch and all others therefrom, under

Supra, Part III.

open assertion of dominion and sovereignty; and in this public assertion, the Dutch and all others acquiesced for more than half a century prior to 1811.

Nature of the Dutch-English Title. The only title that Holland ever had to any territory in Guayana rests, as we have said, either upon a specific cession by treaty, made by Spain as the original proprietor; or (in so far as not conveyed by that treaty) it rests upon prescription only. The facts already cited in the preceding pages are too familiar to need repetition in detail. We here indicate only a few:

Some time between the years 1621 and 1626 the Dutch, then engaged in a war with Spain for their independence of its Crown, took military possession of the lower Essequibo river. At the Cuyuni-Mazaruni junction, some eight miles west of the Essequibo, less than fifty from the coast, and still below the tide-water region, they found and occupied an old Spanish fort, changing its name from El Burgo to Kyk-over-al. This became the nucleus of their first settlement in Guayana. But for fully a quarter of a century afterwards it remained a mere trading-post of the Dutch West India Company, inhabited only by a dozen or so unmarried employés of that Company. In 1648, when peace was made, this military occupancy (for it was nothing more) was confirmed to the Dutch by Spain. That made the Dutch title good as far as it went; but in the very nature of the case, it could not have ex-

Supra, Part III.

tended beyond the places actually and physically occupied. It could not have embraced vast stretches of outlying and uninhabited territory which were in no way essential either to the convenience or safety, or even to the reasonable expansion, of this Dutch settlement. And such, indeed, was, as has been already pointed out, the nature and extent of the cession by the very terms of the treaty itself.

Supra, p. 73.

In the course of time this Dutch settlement extended down the western estuary of the Essequibo to the coast, and thence along the coast to the Pumaron; but never on the coast westward beyond the Moroco, and never in the interior beyond the outer rim of the Cuyuni-Mazaruni Basin. other words, it never extended beyond the natural line of demarcation, already described, beginning on the coast at the mouth of the Moroco, running thence up that river and along the water-parting to the lower Cataracts of the Cuyuni-Mazaruni, and so along the eastern slopes of the great Interior Basin to the upper Essequibo. Here all settlement stopped, at once and forever. And this fact, coupled with the topography of the country which caused it, and which was recognized as causing it, has two important results, namely:

Supra, pp. 150-154.

1. It makes it impossible to contend that occupation or control of either of the two adjacent tracts west of the line of natural demarcation is essential to the convenience or safety of the Dutch settlements on the Essequibo, or even necessary to

their possible natural expansion; for the claim is that these settlements have existed for fully two centuries, and have grown from nothing to over two hundred and fifty thousand souls. And,

2. It demonstrates a natural line of division between the two jurisdictions; and the natural features of this line are such as not only to prevent the spread of settlement beyond it, but to seriously hinder the easy intercourse of the settlers on the opposite sides of it. We have already seen how, in the process of time, and by the habits of the settlers, this natural divisional line became the de facto line, and how it remained so for about seventy-two years. And while natural barriers cannot, in a question of strict legal right, overcome facts of actual and permanent settlement, or of exclusive political control, they nevertheless facilitate the search for some de jure boundary which should accord with these stronger considerations.

As has been pointed out al-The Cession ready, the cession made by of 1648. Spain to Holland, in articles V. and VI., of the treaty of Münster, was reasonably specific. It comprehended only such places in northern Guayana as the Dutch then actually occupied, and also such places in Brazil as were then actually held by the Portuguese. Even under the most latitudinal construction, it could have embraced only such adjacent unoccupied territory as might be deemed necessary to the convenience and safety of the Essequibo settlement, which then numbered

Supra, Part III. pp. 150-154. less than fifty souls. By no known rules of legal interpretation, then or since prevailing, could it have comprehended remote and inaccessible tracts of unoccupied territory, effectually separated from that settlement by natural demarcations, and in no sense essential either to its convenience or safety, or even to its reasonable expansion.

The cession could not, therefore, have included any part of the great Interior Basin of the Cuyuni-Mazaruni. Nor could it possibly have embraced, or have been intended to embrace, any portion of the Orinoco delta region, separated as it is from the Essequibo delta region by natural demarcations: a region necessary to the convenience and safety of the Spanish settlements on the Orinoco, but in no sense essential to the convenience or safety of the Dutch settlement on the Essequibo. Spain then held, in a legal sense at least, if not by actual occupation, the entire Northwest Coast Region between the Moroco and the great mouth of the Orinoco; and she held by actual occupation, a considerable portion of the great Interior Basin of the Cuvuni-Mazaruni, and held it securely as a whole by holding the only available approaches to it. At that time, and indeed for more than a century afterwards, the Orinoco river was the only means of communication between the Spanish settlements in the remote interior and those on the coast. To suppose that Spain would imperil the very existence of her interior settlements by ceding to a foreign power,

Archivo de las Indies (Span.-Venez. Docs.), Vol. I., pp. 84—96, 100—124.

even indirectly and conditionally, the only available approaches to them from the coast, is unthinkable.

Moreover, to assume, as the British construction does, that the cession of 1648 was practically unlimited as respects unoccupied territory in northern Guayana, involves the grossest absurdity. Not only would it restrict Spain, the original proprietor, to the particular spots actually settled by her subjects; not only would it give to a possible enemy the means of effectually cutting off those settlements from all communication with the coast; but it would imply a complete abdication of all right of eminent domain acquired in virtue of original discovery and first possession, and which had been held consecutively for about one hundred and forty years. It would be as if Spain had said to Holland, "I hereby renounce to you, without any compensation. my right of domain to all unoccupied territory in northern Guayana and on the coasts of South America. Henceforth you are to have a free hand to 'conquer and possess' not only such places 'in Brazil' as may be held by my enemies, the Portuguese; but you are likewise licensed to 'conquer and possess' any lands in South America not actually occupied by my loyal subjects."

That His Catholic Majesty intended to make any such wholesale renunciation of his right of domain as this, is simply inconceivable. It would have been in irreconcilable conflict with the declared object of the treaty itself, which was a lasting peace between the contracting parties; and

it would have been, besides, a deliberate abandonment of a right of domain which had been most jealously guarded and effectively maintained since the first discovery of the country. And yet this is precisely what is involved in the British construction of articles V. and VI. of the treaty of Münster!

Blue Book, Venez. (1896), p. 7.

The Dutch Claim by Prescription.

It is furthermore contended, by the advocates of the present British claim, that in any event, and whether in violation of the treaty of Münster or not, the Dutch did, as a matter of fact, extend their occupation in northern Guayana beyond the limits of their actual holdings in 1648; and that these additional possessions were held by the Dutch for a sufficient length of time to make good title by prescription.

But without stopping here to consider whether the prescription thus invoked was or was not in conformity with those well settled and familiar rules of international law only under which the principle itself is admissible, it is sufficient to again point out that, as a matter of fact, the Dutch never extended their occupation into more than one hundredth part of the territory now claimed by England. They never went beyond the western limits of the Essequibo-Pumaron Region. Every time they attempted to overpass the natural divisional line between that region and those of the Northwest Coast and the Cuyuni-Mazaruni, they were met and driven back by the Spaniards. In other words, beyond Moroco river-

Supra, Part III.

whence all westward is essentially Orinoco delta, and all eastward is essentially Essequibo delta—the Dutch never had a settlement, never made a colonial grant of lands, and never so much as maintained an outlier's lodge or a trading-station. They never even tried to plant a settlement in the interior Basin of the Cuyuni-Mazaruni; and when they attempted its invasion for the purpose of establishing outlier's lodges and slave trading stations, they were driven out and kept out by the Spaniards, who asserted and maintained jurisdiction there.

Supra, Part III., pp. 150, 152, 153, 154.

Or, to state case differently (and as has been abundantly proved), Dutch occupation, whether actual or attributive, never went beyond the de facto line already more than once described. That line, as we have seen, had a tacitly acknowledged and uninterrupted existence for at least a whole generation prior to the military occupations of the Dutch Colonies by the English in 1796 and 1803; and it had an uninterrupted existence for about half a century prior to the formal cession of those colonies to England by Holland in 1814, and for nearly three quarters of a century before the Schomburgk agitation in 1840-41. East of that line, Spain and Venezuela had consistently claimed the Essequibo river as the de jure boundary; but the Moroco was the recognized de facto boundary, west of which Spain and Venezuela had never lost exclusive political control.

The English Claim
by Prescription.

Doubtless aware of these facts, England now seeks, or is under-

stood as seeking, to justify her extravagant claim by invoking another species of prescription. The claim now is, as we understand it, that England, which never had any title other than what she derived from Holland in 1814, has likewise, since then, extended her possessions west of the old de facto line; and that she has held these long enough to acquire good title by prescription. This pretension involves two questions, one of fact, and one of law.

With regard to the first, it has been shown, again and again, that up to 1836-40, the English made no attempt to cross the de facto line; nor had the British Government, up to that time, ever formulated, or even intimated, any claim to territory beyond it. Even after the first disturbance of that line by the ill-advised Schomburgk agitation, in 1840-41, the status quo ante was impliedly if not specifically restored by the Diplomatic Agreement of 1850. Nor was the de facto line again disturbed, even indirectly or constructively, till about 1866-67, when "the gold fever" broke out in what is now the disputed territory. It was not actually disturbed, however, till 1884-85, when England, without prior notice or warning, took violent possession of the Northwest Coast Region, and established armed police stations in the Interior Basin of the Cuyuni-Mazaruni. And even after this, in June, 1887, official notice was given out that Her

Part III., pp, 148,. 149, 150. Does. Wash'n Com., Vol. II., pp. 665-667. Majesty's Government would not undertaketo guarantee protection or compensation to
British miners and settlers in those localities, in case the boundary question should
be decided ultimately in favor of Venezuela; thereby clearly betraying a consciousness of want of title, and of the invalidity
of any subsequent claim to title based onsuch occupation.

In the second place the possession thus. claimed lacks all the legal requisites of prescription. It was violent in origin, which is fatal to any claim to title by prescrip-It involved, besides, a violation of the compact of 1850, by which the status quo ante had been restored. Nor is it anv justification to allege that Venezuela had been the first to violate that compact by granting mining concessions in portions of the disputed territory; because it nowhere appears that remonstrance had been made or satisfaction asked by England. So that even if the allegation be true (which is denied), the seizure and occupation of territory in consequence would be an act of reprisal, and must be governed by the rules of international law applicable to reprisals. Furthermore, the possession thus claimed was never at any time peaceable and uninterrupted. For a possession cannot be said to be peaceable and uninterrupted which provokes continuous protest and remonstrance by a former owner or claimant; and from the day in which the British took possession. Venezuela never ceased to remonstrate and to protest before the civilized And when these protests and reworld.

monstrances were found to be unavailing, she did not hesitate to break diplomatic relations with the British government. Finally, and quite independent of all these considerations—any one of which alone would be fatal to the claim by prescription—the occupation began in 1884–5, or say less than fourteen years ago; a period of time too short by thirty-six years to give title by prescription, even under Rule "a" of the present Treaty of Arbitration.

But aside from all these considerations, England's claim is inadmissible on grounds of public policy alone. It would, if allowed, be a precedent for the substitution of might for right. It would practically unsettle title to nearly a quarter of the American continent. It would not only nullify the Declaration of 1823, to which England herself became a party; but it would practically invalidate the Treaty of 1846, between England and the United States, by which the Oregon question was settled on the basis that no power was free to obtain fresh possessions on the American continent by occupation.

Moreover, the admission of such a claim as England now makes to territory in Venezuela, would become the source of neverending dispute and litigation—thus ignoring the only really good reason ever alleged in favor of the application of the principle of prescription between nations as between individuals.

Infra, pp. 179, 180-

Ruies of Prescription in the Arbitration Treaty, By article IV. of the Treaty of February 2d, 1897, under which we are proceeding, the arbitrators are to ascertain all

the facts in the case which they may deem necessary to a decision; and, in making up that decision, they are to be governed by certain rules which have been agreed upon by the high contracting parties as applicable to the case.¹

The first of these rules (designated in the Treaty as Rule "a") is as follows:

"(a) Adverse holding or prescription during a period of fifty years shall make a good title. The arbitrators may deem exclusive political control of a district as well as actual settlement thereof sufficient to constitute adverse holding, or to make "title by prescription."

This is a rule of prescription differing from precedent only in that it fixes an exact period of time within which title may be acquired by occupation. "Adverse holding or prescription during a period of fifty years shall make good title." The clause is mandatory, and the arbitrators have no discretion other than to obey its But what shall be deemed an behest. "adverse holding"? That is left entirely with the arbitrators to determine. only point predetermined is the length of time necessary to constitute prescription; and that, of course, does not exclude the application of the rules of law pertinent to cases of prescription in general the possession was not peaceable in ori-

^I A full text of the Treaty, in the English and Spanish languages, will be found in the Appendix.

gin; if it was not bona fide in origin; if it was not in the name or by authority of the State; if it has not been public and uninterrupted; and if it has not been exclusive, then it lacks all the fundamental requisites of prescription, and the fifty years limit agreed upon cannot cure these defects.

The second sentence of the rule seems to have been introduced for the purpose of greater clearness and caution. An actual settlement, continuously maintained by one nation and permanently excluding all others, is, of course, a "holding" "adverse" to all others. But there are other conditions to be considered. As, for instance, where a nation holds or aims to hold a large tract, covering only particular spots or districts with habitations, but reaching out from those immediate settlements, controls adjacent territory, inhabited only by savages, and excludes therefrom all others; in such a case, the occupant nation may be said to be in possession of the tract as a whole. And this possession is something more than attributive. For attributive possession is where the occupation of a part constitutes legal possession of a larger whole; whereas, actual "political control" is manifested by unequivocal acts of dominion and sovereignty, performed on the territory itself.

Hence it is provided, by the second sentence in rule "a," that the arbitrators "may" deem exclusive political control of a district for an unbroken period of fifty years, as well as actual settlement for that

period, sufficient to constitute an "adverse holding" and to make good title by prescription. In other words, the first sentence relates to actual settlements only; if these shall be found to have existed continuously for fifty years prior to the date of the Treaty, that fact "shall" make good title. The second sentence relates to "exclusive" political control only; if that shall be found to have been of fifty years duration, and of such a character as to constitute, in law, occupation or dominion. subjecting all others to the power of the controlling nation when they enter the territory, then the arbitrators may deem it an "adverse holding" sufficient to constitute good title.

But the whole scheme of the Treaty, as set forth in Articles III. and IV., manifestly is that the boundary line shall be determined as of right rather than as of mere expediency. It is to be determined in accordance with the rules and principles of international law applicable to the case. What these rules and principles are, and how they shall be applied to this particular case, are matters for the arbitrators to determine. But the nature and application of these rules and principles must not be in contravention of the specific agreement expressed by the rule "a" of the Treaty. Hence the second rule (marked rule "b" in the Treaty), which is as follows:

[&]quot;(b) The arbitrators may recognize and give effect "to rights and claims resting on any other ground "whatever valid according to international law and

"on any principles of international law which the "arbitrators may deem to be applicable to the case and which are not in contravention of the foregoing rule."

This is but the complement of rule "a." as that is, in some sense, the complement of this. The occupation by actual settlement, or by actual political control, in order to be valid for purposes of title, must be in accordance with the rules and principles of international law; and these rules and principles, in order to be applicable to this particular case, must be accommodated to the fifty years limitation. So that, in their last analysis, and when construed together, the two rules agreed upon merely define what was hitherto undefined in the body of public international law, namely, the exact period of time within which title may be acquired by prescription.

Private Interests Involved.

But there are also private interests involved; and these are provided for in the third and final rule (marked rule "c" in the Treaty), which is as follows:

"(c) In determining the boundary line, if territory of one party be found by the tribunal to have been at the date of this treaty in the occupation of the subjects or citizens of the other party, such effect which is given to such occupation as reason, justice, the principles of international law and the equities of the case shall, in the opinion of the tribunal, require."

This bears no relation whatever to either of the two preceding rules. It stands quite alone, and relates only to the consideration that shall be given to private interests. Within the last thirteen or fourteen years, British subjects have over-passed

Supra, Part III., pp. 150 et seq.

the old de facto line which had been recognized by the Dutch and Spanish since about 1768, and by the English and Venezuelans up to about 1840, and entered what is now the disputed territory under mining licenses granted by the British colonial authorities. The time has been too short to give them any right by mere occupation, even if all the other requisites of prescription were not wholly wanting. Nor could such acts come within the scope of that familiar rule of law which sometimes makes valid and binding on the country all necessary administrative acts performed by the power in possession; for the acts here to be considered were done when the boundary dispute was at its acutest stage, and when the remonstrances and protests by Venezuela were frequent, vigorous and public.

Moreover, the grants themselves were in the nature of a gratuity, and were practically revoked in June, 1887. For official notice was then given, as we have seen, that all such grants were to be accepted subject to the possibility that, in the final settlement of the boundary question, the lands to which the grants applied should be adjudged part of the Venezuelan territory; in which case, no claim or compensation against the Colony or against Her Majesty's Government would be recognized. The so-called "Schomburgk line" was proclaimed, for the first time, as an ex parte boundary in October, 1886. It is manifest, then, that the equity of any British claim

Docs. Wash'n Com., II., pp. 691, 692. must have accrued within the eight months between October, 1886, and June, 1887. But this equity is provided for in rule "c." If, in determining the boundary line, the arbitrators find it to be such as to leave these interests of British subjects on the Venezuelan side, such treatment is to be accorded to them as may be just and fair in view of the circumstances of the case; and the arbitrators themselves are to pronounce exactly what this shall be.

Analysis of the British Claim by Prescription. port her claims under rules "a" and "b" of the Treaty, England must show:

- 1. That the Dutch, through whom she derived title, either had established settlements¹ in the disputed territory prior to 1746, which were continuously mantained till 1796, when the English took military possession; or,
- 2. That the Dutch government exercised exclusive and uninterrupted political control over uninhabited districts there during the period from 1746 to 1796.

Or if England would establish her title to any territory there claimed in virtue of her own subsequent occupations, then she must prove either,

1. That actual British settlements were

Vattel, Law of Nations, Book I., C. XIX., §218.

^{1 &}quot;Settlement," according to Vattel, "is a fixed residence in any place, with an intention of always staying there." The mere fact of establishing a residence in any place, without intention, sufficiently made known, either tacitly or by express declaration, does not constitute "settlement" in a legal sense. Without this intention, in some way unmistakably manifested, the stay, though it be for a long time, is merely a habitation having none of the legal consequences of bona fide settlement.

established there prior to 1847, and were continuously maintained up to 1897, the date of the present Treaty; or,

2. That the British government exercised exclusive and uninterrupted political control over uninhabited dtstricts there from 1847 to 1897.

Now it appears, as a fact quite beyond dispute, from the relation of the acts of the parties already made in the preceding pages, that the Dutch never had an established settlement either in the coast region west of the Moroco or in the Interior Basin region of the Cuyuni-Mazaruni.

It appears also that, with respect to the Northwest Coast Region, the Dutch never had so much as an outpost or trading-station there west of the Moroco; and that in 1768, when some Dutch colonists from Essequibo, in defiance of the prohibition by their own authorities, attempted to settle west of that river, they were promptly driven out by the Spanish Colonial authorities under assertion of domain and jurisdiction; that this was done without a semblance of protest by the Dutch authorities; and that never afterwards did a Dutchman appear there even in the capacity of a trader. appears furthermore, that the Dutch never made even a "paper grant" of colonial lands anywhere on the coast west of the Moroco; that the only use they ever made or attempted to make of any of the rivers and estuaries west of the Moroco, was that of fishery; that the only use they ever attempted to make of the margins of those

Supra, Part III., pp. 125-136, 139-148, 150-154.

Ib. Id.

rivers and estuaries was that of cutting timber for export to a foreign market, or for use in the Colony of Essequibo; and that even these privileges, which might have been enjoyed without involving a question of title to the soil, were soon denied to them by the Spanish Colonial authorities, who, by direction of the Home Government. and under unequivocal assertion of sovereignty and jurisdiction, drove out the intruders and continuously maintained dominion and jurisdiction there from about the year 1768 onwards. These facts are clearly established by the Dutch official records already passed in review, and which are now before the arbitrators.

We may, therefore, dismiss from mind, at once and forever, any and all claim to that region set up by England in virtue of alleged occupation or political control by the Dutch during the period of fifty years from 1746 to 1796.

With respect to the Interior Basin region of the Cuyuni-Mazaruni, it has been conclusively shown that the only foundation for the claim to Dutch occupation is the futile attempts made on three several occasions between the years 1703 and 1769 to establish commercial outposts and slave-trading stations there. In each of these the Dutch were defeated by the Spaniards, who, under assertion of dominion and jurisdiction, expelled them, finally and forever, between the years 1758 and 1769. In this instance the Dutch government remonstrated under assertion of adverse title.

Supra, Part III., pp. 95-97, 98-111. But the remonstrance was treated first with defiance and then with contempt; and the *Dutch acquiesced*, thus leaving the Spaniards ever afterwards in possession or in exclusive political control.

Hence the British claim to any portions of that tract or region, if based only upon alleged uninterrupted occupation, or upon alleged exclusive political control, by the Dutch prior to 1796, must be dismissed under the rules "a" and "b" of the present Treaty.

It will hardly be contended, we presume, that England could have acquired legal title to any portion of the Dutch Colony of Essequibo by her temporary and intermittent military occupations of it between the years 1781 and 1803.1 Her title was one by transfer, made in the Treaty of August, 1814. Prior to that, she had never been anything more than a belligerent occupant, and as such could neither have extended nor contracted the boundary. Nor could Holland have ceded any territory that she had not uninterruptedly occupied or exclusively controlled for a peried of fifty years next preceding the date of that Treaty. Whatever prescription, therefore, that England may claim, must have began to run subsequent to 1814.

But the fact is, as abundantly attested by both English and Venezuelan documents, that during the 26 years from 1814 to 1840,

In each particular instance the right of post liminum remained with Holland, and was so recognized by England. The territory taken was afterwards restored to its owner; and by the law of nations it had to be, and in fact was, restored in its prestine condition—that is, without change of boundary.

Vattel, Law of Nations, III., C. XIV.

England made no attempt at occupation or political control west of the Moroco, nor in the Interior Basin of the Cuyuni-Mazaruni. The status quo as it had existed between Spain and Holland from about 1768 onwards, was maintained; thus giving the old de facto line an uninterrupted existence of 72 years. Any claim, therefore, which England may now have to territory beyond that line, predicated upon prescription, must have originated since 1840.

Nor could it have originated even then; for the Schomburgk agitation of 1840-41 ended, as we have seen, in the truce of 1850, whereby the status quo ante was restored. The only result of the Schomburgk agitation was an enlarged claim, not an extended occupation or political control. In proof of this, we have the assurances of England herself, officially made through her diplomatic representative at Caracas in 1850, that she neither had then occupied, nor intended to occupy in the future, any portion of the territory covered by this new claim. Any occupation or political control, therefore, which she may now have there, not only must have been in violation of that pledge (since it was never revoked till 1886); but, what is more to the purpose, must have originated subsequent to 1850, or say less than 48 years ago, and this, of course, is fatal to her claim under rule "a" of the Treaty.

As to Protectorates" It has been officially intimated, if indeed the pretence has not been formally and authoritatively pro-

Supra, Part III.

Br. Blue Book, No. 1 (1896), pp. 24, 25. Ib. Id., No. 3 (1896), pp. 4, 14, 15, 16. claimed, that exclusive political control was established and maintained over certain uninhabited districts, in what is now the disputed territory, by the alleged fact of the establishment and maintenance there of "Protectorates" of Indians, first by the Dutch and afterwards by the English.

It is difficult to believe that any claim to

It is difficult to believe that any claim to sovereignty having no better origin than this should ever have been seriously made: or, if ever seriously made, that it should now be relied upon to establish British title under rules "a" and "b" of the present Treaty. A Protectorate implies Statehood—sovereignty in the protected as well as in the protecting State. It is established when protection is procured by engaging to perform certain service, or to pay certain tribute for the service performed. In either case there is an act of sovereignty; in neither is there a derogation of sovereignty. The compact differs from ordinary treaties between sovereigns in so far only as it creates a difference in the dignity of the contracting parties.

Protectorates by treaty, therefore, can exist only as between organized bodies politic, called States or Nations. They cannot exist where one of the parties is merely a tribe of nomadic savages; because they have no organized body politic, and the land over which they roam is res nullius until taken into possession by some civilized

Vattel, Law of Nations, B. I., C. XVI., §192. State or nation. Protectorates by treaty may indeed exist where one of the parties is semi-civilized, as in some parts of Asia; but only because they are already States, and the territory is not open to occupation.

Now, it is a well established principle that the aborigines of America have no sovereignty; their contracts can convey none. At no time since the discovery of the New World by Columbus have they been treated as independent States or nations. International law knows nothing of them as organized political communities or societies. Their presence in a territory does not prevent, or in any way affect, the acquisition of domain by a civilized nation. The land on which they live is, as between civilized nations, vacant land. They cannot convey so much as their right of occupancy without the sanction of the sovereign power, which in the present case was Spain or Venezuela. Any deed or treaty to that effect made by them with another power, is null and void ab initio: and any attempt by another power to intrude into the territory occupied by them, would be considered an aggression which would justify war. These are principles too fundamental in character, too firmly established in the law of nations, and too universally recognized in the practice of nations to be matters of discussion.

Vattel, Law of Nations, I., C. VII., §81.
Phillimore, Law of Nations, §258.
Twiss, C. VIII., calvo, Le Droit Int., §281.
Despagnet, Essaisur les Protectorats.
5 Peters, I., p. 18.
8 Wheaton, pp. 543, 573.
6 Cranch, 87, 142.
Parl. Paps. (1845), Vol. 33.
19, (1844) Vol. 13,

I Which, in the present case was Spain, who had been in actual possession, as we have seen, since 1768; and in legal possession for more than a century and a half before that. It was within her domain; and the dominion of a nation comprehends her ancient and original possessions. And by the term "possessions" we are to understand not only her territories, but all rights she enjoys.

Vattel, Law of Nations, B. II., Ch. VII., §80.

But even if this were not the case, even if the reverse were true, the acts of the parties themselves, as alleged, and the *facts* as proven, show that neither Holland nor England ever had a Protectorate of Indians in the disputed territory. Not even so much as the form of a treaty has ever been produced, nor is there any circumstantial evidence showing a probability that one ever existed.

Let us briefly recur to the facts. seventeenth century, when the sugar industry began to be profitable, the Dutch were in great need of slave labor. They wanted Indian slaves, and they wanted to prevent the escape of fugitive negro slaves to the wilderness. For this purpose they employed the Carib Indians to kidnap and bring into the Colony Indians of the more docile tribes-sometimes from the frontier Spanish Missions, sometimes from the intermediate country, but always beyond the region adjacent to the Dutch settlementsand for these the Dutch would pay them so much per head on delivery; and they also paid them so much a head for every runaway negro slave whom they brought back alive, and so much for the right hand of every runaway negro they killed. On several occasions these and other tribes inhabiting the wilderness between the Dutch and Spanish settlements were employed against the "bush" negroes in

I Runaway negro slaves, who had banded themselves together in the dense forests, near the frontiers of the Dutch settlement. They became at one time a terror to the planters on the coast east of the Essequibo.

times of slave insurrections, and were paid for their services in trinkets and rum.

When the slave trade ceased, the Dutch (and afterwards the English) sought to conciliate these tribes, and to keep them from raiding the feeble Essequibo settlements, by periodical presents to the chiefs and their followers. But it is of record that both the Dutch and English officials declared, again and again, that this was a tribute "under the name of presents" to buy peace of the savages, of whose strength and ferocity the Colony was in constant dread.

In point of fact, then, so far from being the "protectors" of these Indians, the Indians were the hired protectors of the Dutch. Neither the Dutch nor English ever exercised any authority over these Indians except within the jurisdiction of the actual white settlements; and this, of course, was the case with respect to all foreigners, whether white or colored.

These relations between the whites and Indians had not changed as late as May, 1831. At that date, on the occasion of a trial by the British Colonial authorities of an Indian for murder, the question of jurisdiction was raised. It appears from the sworn testimony that there were then no white settlers above the lower falls of the Cuyuni-Mazaruni, and only two or three between those falls and the junction of the two rivers; that Indians also lived between these falls and the junction, and likewise farther down on the banks and creeks of the lower Essequibo;

Br. Blue Book, No. 1 (1896), App. pp. 168-177.

and that the murder took place within this region, that is to say, east of the outer rim of the Interior Basin of the Cuyuni-Mazaruni.

The court accordingly decided that it had jurisdiction. The accused was tried and convicted, but pardoned at the request of the judge and the Governor. The mass of sworn testimony at the trial, as reproduced in the Blue Book, disclosed the following facts:

- 1. That, up till then (1831) the English had no settlements, no missionary stations, nor any outposts of any kind above the first or lower falls in the Cuyuni river, nor on the coast beyond the Moroco; in other words, that the old de facto line of 1769-70 was still recognized by the British Colonial authorities.
- 2. That at no time or place had either the Dutch or English ever "protected" any Indian tribes, or individual Indians, outside the immediate limits of the actual Dutch or English settlements, as against Spain or Venezuela or other civilized nation, or even as against any neighboring tribe of Indians; in other words, that the alleged "Protectorate of Indians" was a myth, and nothing more.

On the other hand, it is a fact of familiar history that the Spaniards, who claimed and exercised dominion and jurisdiction over these territories, gathered the more docile tribes of Indians into Mission towns and settlements; pursued and chastised those, who having been thus incorporated, ran away; coerced the more fierce and

Blue Book (1896), pp. 168, 169, 170, 171, 172, 173.

Supra, Part III., p. 154.

savage tribes, such as the Caribs, into submission, or drove them out, or exterminated them; and forced the Indians to the civilizing effect of steady labor, by compelling them to perform it against their will. All this had been done openly and continuously for more than two centuries; yet it nowhere appears, nor indeed has it ever been alleged, that the Dutch or English ever once protested, or instituted measures to prevent it, or took any notice whatever of the relations thus existing between the Spaniards and Indians in the territories now in dispute. What the Dutch did was to employ the Caribs to kidnap other Indians for slaves; to make raids for this purpose into territories remote from the frontiers of the Essequibo settlement: and then to abandon these savage hirelings, without any show of protest or remonstrance, to the chastisement and tender mercies of the Spaniards. Surely, that was a novel way of "protecting" them!

Nor had these relations changed as late as 1839-40. In the Northwest Coast Region, and more particularly in that part of it known as the Barima region, Schomburgk found what he considered "cruelty and oppression" practiced by the Venezuelan Government on the Indians. But it seems never to have once occurred to him, nor to the British Colonial authorities with whom he conferred on the subject, that the English were, or ever had been, the "protectors" of these unfortunate Indians, and therefore competent to interfere in their

Parl. Papers, 1840, Vol. 34. behalf. Both he and the Colonial Governor saw but one way by which this might be done, and that was by so extending the boundaries of the Colony as to include the territory where these Indians lived. was not till after the so-called "Schomburgk line" had been actually run, and therefore not till after the Barima region had been included in a new and more extended territorial claim, predicated upon prior alleged occupation by the Dutch, that we hear of any British anxiety about the welfare of the Indians. Then it was, for the first time, that the British Government instructed the Colonial authorities to "resist any aggressions upon the Indians"; and the injunction was expressly limited to Indians "within the line which is assumed "in Mr. Schomburgk's map as the bound-"ary of the Colony."

Blue Book pp. 188, 189.

It thus clearly appears that no Protectorate ever existed, or was even thought of as a basis for a boundary claim; but that a boundary claim, based upon an alleged civilized occupation and settlement, was the foundation of the Protectorate of Indians. And this, it is scarcely necessary to point out, is no Protectorate at all, since every nation is presumed to exercise jurisdiction within its own "assumed" territorial limits. The real test of a Protectorate is the protection of its objects outside the limits of the protecting nation's own territory.

Relations between the Spaniards and Indians.

It has been adroitly insinuated rather than directly alleged, that

the Spaniards never really possessed or occupied this Northwest Coast Region. where the Caribs lived, nor the Cuyuni-Mazaruni Region where they roamed in search of red slaves; and the inference sought to be drawn is that the territory in both regions was still res nullius and open to civilized occupation. Even if this were true (which is denied), it could not help the English case, because it is in evidence that there was no British occupation there prior to 1850, nor indeed till within the past fourteen years. But the facts, as proven, are that as early as 1768 the Spaniards purged both these regions of all foreign intruders: that they drove the Dutch out under assertion of title, and kept them out ever afterwards; and that the Dutch government acquiesced. This in itself is fatal to any claim predicated upon Dutch occupation. But this is not all. These acts could not have taken place had not the Caribs, who inhabited the one region and roamed over portions of the other, already been under Spanish subjection. Moreover. the British assumption is fallacious as to its inferences. As late as the middle of the last century some of the New England settlements in North America were attacked and their inhabitants massacred by Indians who, like the Caribs, were not yet entirely subdued; and the same thing occurred in some of the Western settlements of the

Supra, Part III., pp. 149, 150.

Supra, Part III., pp. 144 et seq.

United States within the memory of men now living. But it will hardly be pretended that because these occurrences took place the lands in Massachusetts and New York, and later on those of Colorado and Wyoming, were res nullius and open to occupation by any civilized European nation.

Supra, Part II., pp. 46, 47, 48.

The patent fact is, as the evidence already adduced conclusively shows, that at a very early day-long, in fact, before either Dutch or English had visited Guayanathe Spaniards subdued all the Indians west of the Essequibo, except the Caribs. For a long time this exceptionally fierce and powerful tribe continued refractory, and roamed over territory on both sides of the Orinoco, as well as over some portions of the great Interior Basin of the Cuvuni-Mazaruni. But by the beginning of the eighteenth century they had been practically subdued by the Spaniards, and confined, for the most part, to the Barima region: and by the middle of that century there were as many as seven mission settlements established among them, all under the immediate auspices of the Spanish government. Those of the tribe that were not thus brought under control, tamed and assimilated in the Spanish civilization, have met the usual fate of the red man in both the Americas, namely, complete extermina-And since this was done by the Spanish nation, and by none other, it will hardly be seriously contended at this late day, in the face of well settled rules and

Father Caulin, pp. 8, 9. uniform precedent, that Spain did not thereby become sovereign of the territories over which those savages roamed until the time when their final subjugation or extermination took place, which was early in the present century.

Spain's Title to the Orinoco Delta Region. But there are other and if possible still more important facts, as well as principles of international

law, which must be considered in connection with this monstrous claim by Great Britain to the Barima region; conditions which, even if all others were wanting, would give to Spain and her successor indefeasible title to this Barima region.

No one, we presume, who has ever personally visited the great Delta region of the Orinoco, or who has carefully studied its geographical position and peculiar topographical conformation, can be in any doubt as to its purely alluvial and comparatively recent origin. That the entire region, from the Moroco to the San Juan, and from the present coast line to the southern extremity of Tortola Island, was once, and at no very remote geologic period, entirely covered by the waters of the Atlantic and of the Gulf of Paria, is too manifest to admit of doubt. The east end of the coast line then was a little to the southward of the Itabo-Morebo caño, and extended thence southwesterly a few miles off the left banks of the lower Barima and Amacuro rivers, and so around eastward of the Coyoni Passage to the

Docs. Wash'n Com., IV., Atlas, Maps Nos. 2, 3, 5, 6, 7, 8. ancient mouth of the Orinoco, at the head of the present Delta.

The rivers Waini and Barima, which now cut their way many leagues through this newly formed alluvial region before reaching the eastern estuary of the Orinoco, once disembogued into the Atlantic very far to eastward, at the points where they now so abruptly turn their course westward. This remarkable deflection in the course of those rivers, or rather the fact of their having broken their passages westward through the mud flats to the main estuary of the Orinoco, is readily accounted for when we remember the power and persistence of the ocean current which sweeps down the coast to the Gulf. Even as late as a century and a half ago the mouth of the Waini, for instance, was not where it now is, but on the Atlantic coast many miles to the eastward. This appears from all the maps of that region published early in the eighteenth century; but more particularly from Gravesande's official map, made for the Dutch West India Company in 1749, and from Hartsinck's map of 1770. Governor Gravesande, who had already lived in the country a quarter of a century, and is presumed to have been familiar with the coast, placed the mouth of the Waini about half way between the Orinoco and the Essequibo; while Hartsinck, who published twenty-one years later, and who had likewise visited the coast, placed

Ib. Id.

Docs. Wash'n Com., Vols. III. and IV., Atlas, Maps Nos. 54, 60, 61. the mouth of that river about half way between the Orinoco and the Pumaron. 1

The probabilities all are that four centuries ago, when the Spaniards first discovered and took possession of the country. the coast line, between the Moroco and the San Juan, was many miles farther southward than it now is, and that the half submerged mangrove swamps and mud islands then extended well up towards the head of the Delta, below which a white man can hardly live even yet. We can well understand, therefore, why it was that the first Spanish fortification and settlement on the Orinoco, established early in the sixteenth century, should have been located just above instead of below the head of the Delta. Even as it was the complaints of unhealthfulness were so strong and persistent that a Royal Order was finally given to move both garrison and town farther up the river.

Among the scores of channels and cross channels leading directly or indirectly from the coast to the head of this great Delta, there are but two which are navigable by ocean steamers, namely, the *Macareo* and the *Navios* or Orinoco proper. The first is available during about six months in the year, and then only for vessels not exceeding eighteen feet draught.

Archivo de las Indies, Vol. I., Parts II., III.

Supra, Part III., pp. 136, 137.

I Gravesande, as we know, was the trusted officer of the Dutch West India Company, and was for more than thirty-five years the official head of the Essequibo Colony. Hartisinck, the historian and cartographer, had access to the Dutch archives as we have seen. Both were zealous in their efforts to expand the Dutch claim to its utmost limit; and yet neither were able to stretch their claim to within fifty miles of Point Barima.

The latter, which disembogues several leagues further eastward between Canarejo. ("Crab") Island and Barima Point, has a uniform depth of from fifty to sixty fathoms, and is available for the heaviest naval vessels all the year round. The marine charts show this to be the only ship channel of the Orinoco mouth, and that the used part of this channel passes within a pistol shot of Barima Point. They show also that the Caño Barima, just inside the Point, furnishes an anchorage half a mile wide, nearly sixty miles long, and fully seventy-five feet deep, which is completely sheltered by land and forest from both sea and wind.

The Navios, then, (or El Boco de Navios, as this portion of the great channel is known), is the key not only to the southeastern portion of the Delta, but to the great basin of the Orinoco itself-a region comprising an area larger than that of France and Italy combined. From this point on the coast, the Orinoco river is navigable by the heaviest naval vessels as far up as Angostura (the present city of Bolivar 1), a distance of more that three hundred miles. Within this distance, the great river receives the waters of some twenty other navigable streams; while above that point on its eastern side alone. it receives the waters of some ninety others; one of which (the Casequiere) is navigable to the Rio Negro, which flows into the Amazon. On its western side, the Orino-

¹And political capital of one of the nine constituent States of the Venezuelan Republic.

co, above the point named, receives the waters of thirty-one affluents, many of which are navigable and penetrate the remote interior of the continent. One of these (the Apure) traverses the very center of Venezuela, and is navigable for a distance of more than three hundred miles. Another affluent (the Meta) is navigable by light steamers as far up as Villavicencia; only a few leagues from the city of Bogotá, the capital of the Republic of Colombia.

We can readily un-The Delta as a Strategic Point. derstand then, why Spain, while apparently making little use of this immense Delta swamp region, guarded it with such jealous care; it was the gateway to the interior where her rich possessions lay. We can understand also why she so persistently held the eastern side of the great Delta, up to its very terminus at the Moroco; for as already pointed out, the inland waterways between that river and the main channel of the Orinoco, made it possible for an enemy to enter this gateway from that side.

These conditions have not changed since the independence of those provinces. If the exclusive control of this Delta region by Spain was essential to the safety of her interior settlements a hundred years ago, its exclusive control now by Venezuela is no less essential to the safety and integrity of that Republic, and not only to Venezuela, but to the welfare and tranquillity of other Spanish-American Republics, also. For it will be seen at a glance that this

Supra, Part I., pp. 12, 13, 18, 19; Part III., pp. 112, 114, 123 et seq. navigable outlet of the Orinoco is the key to fully a quarter of the whole South American continent; and that its control by Great Britain, or other great maritime Power, could hardly fail, in the course of a very few years, to work radical changes in the commercial relations and political institutions of at least three of the other South American Republics.

arl. Papers, 1840, Vol. 34, p. 327. Now the most remarkable feature of the English claim to this region is, that it was originally predicated upon these identical reasons. Thus Schomburgk, before whose time the claim was never heard of, pointed out "the political importance of the month of the Orinoco" in any settlement of the boundary question that might be made. And he subsequently pointed out that although the Moroco, Waini, and Barima are of

Schomb. Br. Guiana, p. 17. "comparatively small size, they are so closely con-"nected by branches and tributaries [caños?] that they "afford an inland navigation from the Moroco to-"the Orinoco;" and that "their importance in a po-"litical and commercial respect became therefore "evident."

Later on, he perceived that the mouth of the Amacuro, a few miles above the Barima, offered considerable military advantages; and so, without the slightest pretense of justification, he proceeded to include that also in his line.

In his edition of Raleigh's "Guiana," published in 1848, he has a foot-note in which he says that

"A strong battery established at Punta Barima, where the Dutch had as early as 1660 a fortified outpost, would prevent any vessel from entering the Orinoco drawing more than eight feet of water,

Schomb. Raleigh, p. 115. "Punta Barima, or Point Breme, as it was called by the Dutch, commands entirely the entrance of the 'Orinoco by the Boca de Navios; and when, on a late occasion, the right of possession to this point was the subject of discussion between the British Government and the Republic of Venezuela, Punta Barima was appropriately and emphatically styled "The Dardanelles of the Orinoco."

The claim, here injected parenthetically, that the Dutch once had "a fortified outpost" at Barima Point (or indeed elsewhere west of the Moroco) has been shown to be without foundation. The whole story, as we have seen, originated from the circumstance of Abraham Beekman's "little shelter" on the upper reaches of the Barima, in 1684, and which was forever abandoned almost as soon as built. But this ludicrous historical blunder does not obscure the fact that, in his professional capacity as an expert engineer, Mr. Schomburgk was quick to perceive the military importance of Barima Point.

But Schomburgk was not the first to perceive these advantages. Humboldt had called attention to them nearly half a century before; and so had a distinguished officer of the British West India military service. In 1802, when England held military possession of Dutch Guiana, Major Macrae was sent to find out what he could about the Orinoco Delta region. In his report. he pointed out where the Spanish forts and military posts were, and the great strategic and commercial importance to Spain of this main mouth of the great river. He said the Spanish Government had obviously no other object in occupying and holding that point than

" the very important one of excluding other powers

Supra, Part III., pp. 136, 137, 138, 139, and documents there cited.

Humboldt, Pers. Nar., V., 714.

Br. Blue Book Venez., No. 1 (1896), p. 155. " from a river which runs along the rear of the Prov-"inces of Popayan, Venezuela, Caracas, Cumaná, " and Paria:"

and which, in the hands of a commercial "nation" would "monopolize the traffic" of the rich Spanish possessions in the interior. and which.

" if possessed by a warlike Power, might immediate-" ly paralyze the authority and gradually destroy " the tenure by which Spain held her vast Empire

" in South America."

It is true, this is Fallacy of British Claim to Barima by Occupation.

not now the ostensible reason alleged for England's claim; nor are we concerned about conjectures as to ulterior mo-

tives. England is now trying to make out title to this Barima region by occupation alone—that is to say, by prescription; and this claim has been shown to be without the slightest foundation. It has been shown that the Dutch Government. through which England claims prescriptive title, never made any pretense of occupation. No such pretension was set forth even in the formal presentation of the Dutch claim in 1769, nor afterwards. The Dutch Government alleged possession up to the east bank of the Moroco; but there is not even a suggestion of occupation or possession of a foot of land west of that river. What, then, was their title to lands there? Confessedly they had none; nor did they profess to know where the boundary was. In their Remonstrances of 1759 and 1769, they merely intimated a vague claim-a claim that the boundary extended "to beyond the Waini"; and, in support

See Blue Book Venezuela, No. 3 (1896), pp. 86, 87, 88, 90, 109, 110. of this claim, they referred to a map of the continent published by the French geographer, D'Anville, in 1748.

Now on the D'Anville map, thus put in evidence, is a dotted line extending from a point on the coast just below the mouth of the Waini southward across the headwaters of the Cuyuni, and thence a little south of eastward across the upper Essequibo to a point on the coast north of the Amazon basin. This line was copied mechanically from Delisle's map of the continent, published in 1722, where the author had employed it to indicate what was then supposed to be an equal division of the waterparting between the valleys drained by the Essequibo and Orinoco rivers. Twentysix years later, when the topography of the country had become better known, D'Anville copied this line under the manifest misapprehension that it must have been intended as a suppositious political boundary instead of a regional boundary. Of course it was not originally so intended. It designated nothing more than a supposed regional boundary; its subsequent misapplication being the result of an erroneous reading-not an uncommon occurrence, and easily accounted for.

But, in any event, the Remonstrance of 1769 was, as we have seen, totally disregarded by Spain, who actually held, and forever afterwards continued to hold, the entire region west of the Moroco; and in this assertion and exercise of dominion, the Dutch acquiesced, thus abandoning their shadowy claim "to beyond the Waini."

Docs. Wash'n Com., Vol. IV., Atlas, Maps Nos. 39, 40, 37, 38.

Ib. Id., Vol. III., pp. 49, 50, 51, 52 et seq.

1b. Id.

Supra, Part III.

In Law, the Delta Belongs to the Nation which owns the Orinoco. But to return from this short digression to the point of our immediate inquiry. The

diate inquiry. very importance, in a political and military sense, of the Orinoco mouth to the nation which incontestably owns and occupies the entire basin of that great river, is precisely what, above all other considerations, settles the question of its ownership. For it is a principle of international law, too well established to admit of controversy, that those who own and possess the water-shed and the firm banks of a river, thereby own and possess the delta islands and estuary shores below. And this is true even though those islands and shores be unfit for habitation, and have not been inhabited by civilized man; for they are not terras nullius or "vacant" lands which another nation can appropriate, and thus establish a hostile control at the river's mouth.

This is a rule that is not only cognate to those of the ancient Roman law, relative to alluvial deposits in general; but it has been specially and affirmatively declared by an English Court of Admiralty, and uniformly recognized in the practice of nations since the beginning of the present century.

We allude, of course, to the notable instance which occurred in 1805, during the war between England and Spain. A ship of somewhat doubtful character, but flying the American flag, was captured by a Brit-

ish privateer off the mouth of the Mississippi, more than three miles from the firm ground, but within the three-mile limit of a chain of mud islands, formed by joint action of river and sea, which fringed the coast, forming "a sort of portico to the mainland." The United States was a neutral power, and claimed the ship in the Prize Court on the ground that the capture was made within American territorial waters. In this decision of the case, Sir W. Scott (Lord Stowell) said:

"We all know that the rule of Law on this sub-"ject is, 'terræ dominum finitur, ubi finitur armo-"rum vis'; and since the introduction of firearms, "that distance has usually been recognized to be "about three miles from shore. But it so happens "in this case, that a question arises as to what is to "be deemed the shore, since there are a number of "little mud-islands composed of earth and trees "drifted down by the river, which form a kind of "portico to the mainland. It is contended that "these are not to be considered as any part of the "territory of America, that they are a sort of 'no "man's land," not of consistency enough to support "the purposes of life, uninhabited, and resorted to "only for shooting and taking bird's nests. It is "agreed that the line of territory is to be taken "from the Balise, which is a fort raised on made "land by the former Spanish possessors. I am of a "different opinion; I think that the protection of "territory is to be reckoned from these islands; and "that they are the natural appendages of the coast "on which they border, and from which, indeed, "they are formed. Their elements are derived im-"mediately from the territory, and on the principle "of alluvium and increment, on which so much is "to be found in the books of Law, quod vis fluminis " de tuo prædio detraxerit, et vicino præ lio attulerit, "palam tunum remanet,1 even if it had been carried "over to an adjoining territory. Consider what the "consequence would be if lands of this description " were not considered as appendant to the mainland,

Case of the Anna Robinson's Ad. Reps., Vol. V., pp. 373-385.

¹Inst. Lib. II., Tit. 1, §21.

"and as comprised within the bounds of territory." If they do not belong to the United States of "America, any other power might occupy them; "they might be embanked and fortified. What a "thorn would this be in the side of America! It is "physically possible at least that they might be so "occupied by European nations, and then the command of the river would be no longer in America, but in such settlements. The possibility of such a "consequence is enough to expose the fallacy of any "arguments that are addressed to shew that these "slands are not to be considered as part of the territory of America."

This decision, now nearly a century old, has never been shaken, nor even called into question by jurists and publicists. It has never been changed or modified either by the law courts or by the subsequent practice of civilized nations. And indeed, why should it have been? It was but the logical application of certain general principles of law as old as the law itself. was in strict accord with an ancient rule of the Roman law, and with that rule as it has been adopted by the law of nations. It has been copied or cited with approval by every modern English and American jurist of repute, and notably by both Phillimore, and Wheaton, and may be said to be permanently incorporated into the great body of modern international law.

The broad and comprehensive principle laid down in Lord Stowell's decision is of universal and uniform application, and has been so regarded by all standard authorities. That it is as specifically applicable to the delta region of the Orinoco, as it ever was to that of the Mississippi, is too obvious to admit of controversy. It matters

Inst. lib. II., tom. I., §§20, 21.

Cod. VII., 41 De-Alluvionibus.

Vattel, L. N. lib., I., Chap. XXII., §§266, 267, 268.

Phillimore, Law of Nations. p. 255, 27 CCXXXIX., CCXL. Wheaton, El. Int. Law, Chap. IV., not, then, whether the Dutch or English ever had or had not a trading "post" or other temporary establishment at the Orinoco mouth; in either case, under the rule here laid down, Spain or her successor (Venezuela), as the owner and actual occupant of the firm banks above, and of the entire drainage basin of that great river, is the legal owner of its mouths and of the alluvial delta region formed by it.

And this, we may remember, is precisely the view taken of the case by every British Ministry up to 1885-6, when the so-called "Schomburgk line" was first proclaimed as an ex parte boundary. Before that time, as appears from the official correspondance herewith submitted, every Ministry recognized the untenable character of the British claim to what was styled in that correspondence as "The Dardanelles of the Orinoco": and no disparagement of an ancient and honorable name is intended by pointing out that every Ministry except that of Lord Salisbury, offered to agree to some conventional boundary line that would (or that they said would)

"secure to Venezuela the uninterrupted possession of the mouth of the Orinoco."

But aside from all these considerations—sufficient in themselves to establish title in Venezuela—the Orinoco mouth and Delta region belong to Venezuela in virtue of prior occupation and exclusive political control by Spain through which her title was derived. Moreover, title is vested in Venezuela in virtue of her own uninterrupted possession and exclusive political

Off. Hist. Discus. Boundary Q., pp. 59-62.

Ib. Id. pp. 61, 62.

Off. Hist. Dis., Part IV., pp. 33-38.

Supra, Part III.

Off, Hist. Dis. &c., Part II., pp. 2-5.

Br. Blue Book, Venez., No. 1 (1896), p. 233. control of that mouth and region from the date of her independence of the Spanish Crown up to the time of the armed invasion by Great Britain, in 1886; for the Schomburgk agitation of 1841 cannot be deemed an interruption in law, since, by the Agreement of 1850, the status quo ante was restored, no ouster or abandonment having taken place in the meantime.

From time immemorial Spain exercised sovereign rights over the Orinoco mouth and the appurtenant delta region, by means of pilot stations, police and military posts, and coast guard launches. In 1768, she drove out from that region all foreign intruders and kept them out; so that her exclusive political control was in no wise interrupted by the Dutch traders and smugglers, or by the Dutch squatters (or rather squatter) who attempted a habitation there. Thirty-four years afterwards, in 1802, as appears from Major Macrae's report, already referred to, Spain still maintained police and military stations, and a pilotage and coast-guard service there; and these remained intact up to the date of Venezuela's declaration of independence in 1811.

Twenty-five years after this, in 1836, as appears from the official correspondence between the British legation at Caracas and the Venezuelan Ministry, Venezuela, as the successor of Spain, still maintained possession and exercised exclusive political control there; and these conditions had not changed in 1841, as appears from the official correspondence of that date passed between the Caracas and Georgetown gov-

ernments. Nor had they changed up to 1885, as we have already seen, when Venezuela still maintained a pilotage service, light ship and buoys, police and revenue stations there.

Supra, Part III.

It results then, that whether we rest the case on the principles of law as laid down in Lord Stowell's decision, or whether we rest it upon rules "a" and "b" of the present Treaty, Venezuela's title to the mouth of the Orinoco and appurtenant channels and harbors is clear and indisputable. This point, it is presumed, will hardly be further contested.

Title to the Northwest Coast Region.

But since these appurtenant channels and harbors are

very closely connected by inland navigable waterways with the Moroco river, which forms the eastermost boundary of the Orinoco delta region, Who shall be deemed the rightful owners of that part of this alluvial formation. Is it not a part, and practically an inseparable part, of the Orinoco delta region?

These questions themselves suggest the ready and satisfactory answer. The same principles of public law, so lucidly expressed by Lord Stowell, which give to Venezuela the mouths and coast harbors of the Orinoco, likewise give, pari passu, these appurtenant channels. They are inseparably connected with the Caño Barima, and thence with the Boco de Navios; and if these are indispensable (as they certainly are) to the safety and territorial integrity

of the nation which owns and occupies the firm banks of the Orinoco above, so are the Itabo channels, the rivers Waini and Barima, and the Moro Passage. A hostile Power, by holding and fortifying these places, could easily flank the ocean entrance between Cangrejo Island and Point Barima, and thus effectually command the upper reaches of the only navigable estuary of the Orinoco to the head of the Delta.

If however, in this instance, as in that of the Orinoco mouth proper, the broad principle of law as laid down by Lord Stowell were totally disregarded, and Venezuela should elect to rest her case on occupation or exclusive political control, as provided in rules "a" and "b" of the present Treaty, her title would still be indefeasible, not only to these appurtenant rivers and channels, but no less so to the whole Northwest Coast Region. For we have just seen that Spain exercised exclusive political control over that entire region from 1768 to 1811, when Venezuela became her successor in title; and that from 1811 to 1867, and even beyond to 1885, Venezuela exercised uninterrupted domain and jurisdiction there. That is to say, with respect to the Boco de Navios and appurtenant harbors and channels, her possession was actual and exclusive: while with respect to the uninhabited district between Caño Barima and the Moroco de facto line, her possession was attributive, but no less exclusive.

Supra, Part III.

Title to Interior

Basin of the

Cuvuni.

And the same is true of the great Interior

Basin of the Cuyuni-Mazaruni. That region, as already described, is a distinctly marked Tract, effectually separated from the Essequibo region on the east by a rim of almost impassable mountains, and from the Coast region on the north by the unbroken range of Imataca mountains. The topography of this Interior Basin region, and the history of its settlement show that the only available approaches to it are all from the Orinoco side, just above the Delta. There has never been a successful attempt at settlement there from any other side; and therefore never any permanent settlement there save only by Spain and her successor, who held the Orinoco basin. Early in the sixteenth century, Spain established permanent settlements on the east side of the Orinoco; and by the middle of the seventeenth century these settlements had extended over into this Interior Basin region of the Cuvuni-Mazaruni, and have continued to this day.

Up to about 1757, the Dutch of Essequibo made no attempt to cross the natural barrier from their side; and when they did attempt to overpass it and to establish a slave-trader's "post" just inside the Interior Basin above the lower Cuyuni falls, they were promptly driven out, and forever afterwards kept out by the Spaniards under assertion of domain and jurisdiction. And the situation thus continued up to 1811,

Ib. Id., Part I.

Ib. Id., Part II.

Ib. Id., Part III.

when the allegiance of those settlements and all incident right of domain was transferred, unimpaired, from Spain to Venezuela, who has never relinquished or abandoned her title.

It has been asserted that the Dutch settlement, made about 1626-27, on the Essequibo at the mouth of the Cuyuni-Mazaruni, some forty-five miles from the coast (or to be exact, at the junction of the two last named rivers, eight miles above their common mouth on the left bank of the Essequibo), gave Holland title to the entire water-shed of those two rivers. Of course there is no such principle of international law. The principle adhered to in the settlement of the Oregon boundary question, between England and the United States, and which has never been changed or modified by subsequent practice, is that, when discovery is made from the sea, and the approach to the country is from the sea, so that the occupant of the seacoast bars the way to any second comer, the discoverer and first occupant will be entitled to extend his settlement over the interior vacant district, provided there be no civilized power in his way. So there are two conditions to be observed, neither of which are found to have existed in the present case. The Dutch settlement at Kyk-over-al was not such as to bar approach to the Interior Basin of the Cuyuni-Mazaruni; because all natural and available approaches to it were, and are still, from the opposite or Orinoco side. Nor was this Interior

Sir Travers Twiss, Law of Nations, §§122, 127.

Ib., The Oregon Question, pp. 247, 282.

Phillimore, Int. Law, I., Ch. XII.

Lawrence, Prin. Int. Law, §94. Basin region terras nullius or "vacant" land. It was already held in possession by Spain, which had materially occupied portions of it, and actually held the Tract as a whole by holding the only available approaches to it.

It is true that, subsequent to 1861, when the "gold fever" had broken out in the upper Cuyuni, the Colonial authorities of British Guiana set up an adverse claim to a part of this interior Basin region, and granted mining concessions there. it was expressly stipulated, as we have seen, that these grants were to be accepted on the condition that if, in the final settlement of the boundary question, this territory should be awarded to Venezuela (which still claimed and exercised dominion and jurisdiction there), the grantees would have no right of indemnity. They were to be treated as adventurers who took all risks. The British Government was not to be compromised in any way by an occupation thus made of territory the title to which was in dispute.

Moreover, the mining camps, or socalled "settlements," or police stations established and maintained there in consequence of those grants were never, and were never intended to be, settlements in the international sense, such as are contemplated in article IV. of the present Treaty of arbitration. They were established and maintained for a specific purpose, and their permanence was to depend upon a certain contingency named; whereas, Vattel, Law of Nations, B. I., Ch. XIX., §§217, 218.

a settlement, in the legal sense here contemplated, "is a fixed residence with an intention of always staying there." But how can it be said that British subjects acquired a fixed residence in the Interior Basin region of the Cuyuni-Mazaruni when they accepted these "paper grants" with the express understanding that ouster by an adverse claimant was possible at almost any time in the near future?

Furthermore, this occupation by British subjects was never at any time either peaceable or undisturbed; for it was, from the very outset, opposed by Venezuela under assertion of title and jurisdiction. At no time during its continuance was it uninterrupted, since the protests and remonstrances of the Venezuelan Government were vigorous and persistent. Nor has the occupation or "adverse holding" been of sufficient length of time to give title under the provisions of rules "a" and "b" of the present Treaty.

It thus appears, from the acts of the parties themselves, taken in connection with rules "a" and "b" of the Treaty and with the principles of international law applicable to the case, that two of the three Tracts in dispute are practically eliminated from the controversy. The title to all lands west of the Moroco, and west of the eastern rim of the Interior Basin of the Cuyuni-Mazaruni, is undoubtedly in Venezuela. West of that natural divisional line between the Essequibo and Orinoco regions, and

which for more than a century prior to the year 1886 was the recognized de facto boundary, England has no valid claim to sovereignty and jurisdiction. Whatever private claims there may be in consequence of British subjects having settled there within a period of time short of the fifty years limit, or say after the year 1846, will constitute a separate branch of inquiry. All such claims are generously provided for in rule "c" of the Treaty. It is for the Arbitrators to determine what, if any, consideration shall be given to such claims when they shall have been presented; or what compensation, if any, shall be awarded to such private claimants in accordance with "reason, justice and equity."

With regard to territories east of this de facto line, while Spain has always consistently claimed, as Venezuela still claims, the Essequibo as the de jure boundary, the fact is recognized that, however legal and just this claim may be, and however easily it may be established under the recognized principles of international law, it must now be so modified as to conform to the terms of the agreement as expressed in rules "a" and "b" of the present Treaty. Venezuela entered into that agreement in good faith, and with full knowledge of its possible consequences with respect to this Essequibo-Pumaron Region. But we hold that since the original title was vested in Spain and not in Holland, and England derived only such title as Holland had in 1814, the burden of proof is on Great Britain to

show how and when that original title was destroyed or transferred. Failing in that, the presumptive title is in Venezuela as the legal successor of Spain.



APPENDIX.

Treaty of Arbitration for the settlement of the question of Boundary between the Republic of Venezuela and the Colony of British Guiana, signed February 2, 1897. Ratifications exchanged June 14, 1897.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of Venezuela, being desirous to provide for an amicable settlement of the question which has arisen between their respective govern. ments concerning the boundary between the Colony of British Guiana and the United States of Venezuela, have resolved to submit to arbitration the question involved, and to the end of concluding a treaty for that purpose, have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable Sir Julian Pauncefote, a member of Her Majesty's Most Honorable Privy Council, Knight Grand Cross of the Most Honorable Order of the Bath and of the Most Distinguished Order of St. Michael and St. George, and

Los Estados Unidos de Venezuela v Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, deseando estipular o arreglo amistoso de la cue do que se ha suscitado entre ... respectivos Gobiernos acerca del límite de los Estados Unidos de Venezuela y la Colonia de la Guayana Británica, han resuelto someter dicha cuestión á arbitramento, y á fin de concluir con ese objeto un tratado, han elegido por sus respectivos Plenipotenciarios:

El Presidente de los Estados Unidos de Venezuela, al Señor José Andrade, Enviado Extraordinario y Ministro Plenipotenciario de Venezuela en los Estados Unidos de América:

Y Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda al Muy Honorable Sir Julian Pauncefote, Miembro del Muy Honorable Consejo Privado de Su Majher Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

And the President of the United States of Venezuela, Señor José Andrade, Envoy Extraordinary and Minister Plenipotentiary of Venezuela to the United States of America:

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

An arbitral tribunal shall be immediately appointed to determine the boundary line between the Colony of British Guiana and the United States of Venezuela.

ARTICLE II.

The tribunal shall consist of five jurists: Two on the part of Great Britain, nominated by the members of the Judicial Committee of Her Majesty's Privy Council, namely, the Right Honorable Baron Herschell, Knight Grand Cross of the Most Honorable Order of the Bath; and

estad, Caballero Gran Cruz de la Muy Honorable Orden del Baño y de la Muy Distinguida Orden de San Miguel y San Jorge, y Embajador Extraordinario y Plenipotenciario de Su Majestad en los Estados Unidos:

Quienes, habiéndose comunicado sus respectivos plenos poderes que fueron hallados en propia y debida forma, han acordado y concluido los artículos siguientes:

ARTÍCULO I.

Se nombrará inmediatamente un Tribunal arbitral para determinar la línea divisoria entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica.

ARTÍCULO II.

El Tribunal se compondrá de cinco Juristas; dos de parte de Venezuela, nombrados, uno por el Presidente de los Estados Unidos de Venezuela, á saber, el Honorable Melville Weston Fuller, Justicia Mayor de los Estados Unidos de América, y uno por los Justicias de la Corte Suprema

the Honorable Sir Richard Henn Collins, Knight, one of the Justices of Her Britannic Majesty's Supreme Court of Judicature; two on the part of Venezuela nominated, one by the President of the United States of Venezuela, namely, the Honorable Melville Weston Fuller, Chief Justice of the United States of America, and one nominated by the Justices of the Supreme Court of the United States of America, namely, the Honorable David Josiah Brewer, a Justice of the Supreme Court of the United States of America; and of a fifth jurist to be selected by the four persons so nominated, or, in the event of their failure to agree within three months from the date of the exchange of ratifications of the present treaty, to be selected by His Majesty the King of Sweden and Norway. The jurist so selected shall be president of the tribunal.

In case of the death, absence or incapacity to serve of any of the four arbitratorsabove named, or in the event of any such arbitrator omitting or declining or ceasing. de los Estados Unidos de América, á saber, el Honorable David Josiah Brewer, Justicia de la Corte Suprema de los Estados Unidos de América; dos de parte de la Gran Bretaña nombrados por los miembros de la Comisión Judicial del Consejo Privado de Su Majestad, á saber, el Muy Honorable Barón Herschell. Caballero Gran Cruz de la Muy Honorable Orden del Baño, y el Honorable Sir Richard Henn Collins, Caballero, uno de los Justicias de la Corte Suprema de Judicatura de Su Majestad; y de un quinto Jurista, que será elegido por las cuatro personas así nombradas, ó, en el evento de no lograr ellas acordarse en la designación dentro de los tres meses contados desde la fecha del canje de las ratificaciones del presente Tratado, por Su Majestad el Rey de Suecia y Noruega. El Jurista á quien así se elija será Presidente del Tribunal.

En caso de muerte, ausencia ó incapacidad para servir de cualquiera de los cuatro Arbitros arriba mencionados, ó en el evento de que alguno de ellos no llegue to act as such, another jurist of repute shall be forthwith substituted in his place. such vacancy shall occur among those nominated on the part of Great Britain the substitute shall be appointed by the members for the time being of the Judicial Committee of Her Majesty's Privy Council, acting by a majority, and if among those nominated on the pert of Venezuela he shall be appointed by the Justices of the Supreme Court of the United States, acting by a majority. If such vacancy shall occur in the case of the fifth arbitrator, a substitute shall be selected in the manner herein provided for with regard to the original appointment.

ARTICLE III.

The tribunal shall investigate and ascertain the extent of the territories belonging to or that might lawfully be claimed by the United Netherlands or by the Kingdom of Spain, respectively, at the time of the acquisition by Great Britain of the Colony of British Guiana—and shall determine the boundary line between the Colony of British

á ejercer las funciones de tal por omisión, renuncia ó cesación, se sustituirá inmediatamente por otro Jurista de reputación. Si tal vacante ocurre entre los nombrados por parte de Venezuela, el sustituto será elegido por los Justicias de la Corte Suprema de los Estados Unidos, de América por mavoria; y si ocurriere entre los nombrados por parte de la Gran Bretaña. elegirán al sustituto, por mayoría, los que fueren entonces miembros de la Comisión Judicial del Consejo Privado de Su Majestad. Si vacare el puésto de quinto Arbitro, se le elegirá sustituto del modo aqui estipulado en cuanto al nombramiento primitivo.

ARTÍCULO III.

El Tribunal investigará y se cerciorará de la extensión de los territorios pertenecientes á las Provincias Unidas de los Países Bajos ó al Reino de España respectivamente, ó que pudieran ser legítimamente reclamados por aquéllas ó éste, al tiempo de la adquisición de la Colonia de la Guayana Británica por la Gran Bretaña, y determinará la línea divis-

Guiana and the United States of Venezuela.

ARTICLE IV.

In deciding the matters arbitrators submitted, the shall ascertain all facts which they deem necessary to a decision of the controversy, and shall be governed by the following rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the arbitrators shall determine to be applicable to the case.

Rules.

- (a) Adverse holding or prescription during a period of fifty years shall make a good title. The arbitrators may deem exclusive political control of a district as well as actual settlement thereof sufficient to constitute adverse holding or to make title by prescription.
- (b) The arbitrators may recognize and give effect to rights and claims resting on any other ground whatever valid according to interna-

oria entre los Estados Unidos de Venezuela y la Colonia de la Guayana Británica.

ARTÍCULO IV.

Al decidir los asuntos sometidos á los Arbitros, estos se cerciorarán de todos los hechos que estimen necesarios para la decisión de la controversia, y se gobernarán por las siguientes reglas en que están convenidas las Altas Partes contratantes como reglas que han de considerarse aplicables al caso, y por los principios de derecho internacional no incompatibles con ellas, que los Arbitros juzgaren aplicables al mismo:

Reglas:

- (a) Una posesión adversa ó prescripción por el término de cincuenta años constituirá un buen título. Los Arbitros podrán estimar que la dominación política exclusiva de un distrito, asi como la efectiva colonización de él, son suficientes para constituir una posesión adversa ó crear título de prescripción.
- (b) Los Arbitros podrán reconocer y hacer efectivos derechos y reivindicaciones que se apoyen en cualquier

tional law and on any principles of international law which the arbitrators may deem to be applicable to the case and which are not in contravention of the foregoing rule.

(c) In determining the boundary line, if territory of one party be found by the tribunal to have been at the date of this treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law and the equities of the case shall, in the opinion of the tribunal require.

ARTICLE V.

The arbitrators shall meet at Paris, within sixty days after the delivery of the printed arguments mentioned in Article VIII, and shall proceed impartially and carefully to examine and decide the questions that have been or shall be laid before them as herein provided on the part of the Governments of Her Britannic Majesty and the United States of Venezuela respectively.

Provided always that the

otro fundamento válido conforme al derecho internacional, y en cualesquiera principios de derecho internacional, que los Arbitros estimen aplicables al caso y que no contravengan á la regla precedente.

(c) Al determinar la línea divisoria, si el Tribunal hallare que territorio de una parte ha estado en la fecha de este Tratado ocupado por los ciudadanos ó súbditos de la otra parte, se dará á tal ocupación el efecto que, en opinión del Tribunal, requieran la razón, la justicia, los principios del derecho internacional, y la equidad del caso.

ARTÍCULO V.

Los Arbitros se reunirán en Paris dentro de los sesenta días después de la entrega de los argumentos impresos mencionados en el Artículo VIII, y procederán á examinar y decidir imparcial y cuidadosamente las cuestiones que se les hayan sometido ó se les presentaren, según aquí se estipula, por parte de los Gobiernos de los Estados Unidos de Venezuela y de Su-Majestad Británica respectivamente.

arbitrators may, if they shall think fit, hold their meetings or any of them at any other place which they may determine.

All questions considered by the tribunal, including the final decision, shall be determined by a majority of all the arbitrators.

Each of the high contracting parties shall name one person as its agent to attend the tribunal and to represent it generally in all matters connected with the tribunal.

ARTICLE VI.

The printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the arbitrators and to the agent of the other party as soon as may be after the appointment of the members of the tribunal, but within a period not exceeding eight months from the date of the exchange of the ratifications of this treaty.

Pero queda siempre entendido que los Arbitros, si lo juzgan conveniente, podrán celebrar sus reuniones, ó algunas de ellas, en cualquier otro lugar que determinen.

Todas las cuestiones consideradas por el Tribunal, inclusive la decisión definitiva, serán resueltas por mayoría de todos los Arbitros.

Cada una de las Altas Partes Contratantes nombrará como su Agente una persona que asista al Tribunal y la represente generalmente en todos los asuntos conexos con el Tribunal.

ARTÍCULO VI.

Tan pronto como sea posible después de nombrados los miembros del Tribunal, pero dentro de un plazo que no excederá de ocho meses contados desde la fecha del canje de las ratificaciones de este Tratado, se entregará por duplicado á cada uno de los Arbitros y al Agente de la otra parte, el Alegato impreso de cada una de las dos partes, acompañado de los documentos, la correspondencia oficial y las demás pruebas, en que cada una se apoye.

ARTICLE VII.

Within four months after the delivery on both sides of the printed case, either party may in like manner deliver in duplicate to each of the said arbitrators, and to the agent of the other party, a counter case, and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

If, in the case submitted to the arbitrators, either party shall have specified or alluded to any report or document in its own exclusive possession. without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof, and either party may call upon the other, through the arbitrators, to produce the originals or certified copies of any papers adduced as evidence. giving in each instance notice thereof within thirty days after delivery of the case; and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTÍCULO VII.

Dentro de los cuatro meses siguientes á la entrega por ambas partes del Alegato impreso, una ú otra podrá del mismo modo entregar por duplicado á cada uno de dichos Arbitros, y al Agente de la otra parte, un contra-Alegato y nuevos documentos, correspondencia y pruebas, para contestar al Alegato, documentos, correspondencia y pruebas presentados por la otra parte.

Si en el Alegato sometido á los Arbitros una ú otra parte hubiere especificado ó citado algún informe ó documento que esté en su exclusiva posesión, sin agregar copia, tal parte quedará obligada, si la otra cree conveniente pedirla, á suministrarle copia de élá y una ú otra parte podra excitar á la otra, por medio de los Arbitros, á producir los originales ó copias certificadas de los papeles aducidos como pruebas, dando en cada caso aviso de esto dentro de los treinta días después de la presentación del Alegato; y el original ó la copia pedidos se entregarán tan pronto como sea posible y dentro de un plazo que no exceda de cuarenta

días después del recibo del aviso.

ARTICLE VIII.

It shall be the duty of the agent of each party, within three months after the expiration of the time limited for the delivery of the counter case on both sides, to deliver in duplicate to each of the said arbitrators and to the agent of the other party a printed argument showing the points and referring to the evidence upon which his Government relies, and either party may also support the same before the arbitrators by oral argument of counsel; and the arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel, upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE IX.

The arbitrators may, for any cause deemed by them sufficient, enlarge either of the periods fixed by Articles VI., VII., and VIII. by the al-

ARTÍCULO VIII.

El Agente de cada parte, dentro de los tres meses después de la expiración del tiempo señalado para la entrega del contra-Alegato por ambas partes, deberá entregar por duplicado á cada uno de dichos Arbitros y al Agente de la otra parte un argumento impreso que señale los puntos y cite las pruebas en que se funda su Gobierno, y cualquiera de las dos partes podrá también apoyarlo ante los Arbitros con argumentos orales de su Abogado; y los Arbitros podrán, si desean mayor esclarecimiento con respecto á algún punto, requerir sobre él una exposición ó argumento escritos ó impresos, ó argumentos orales del Abogado; pero en tal caso la otra parte tendrá derecho á contestar oralmente ó por escrito, según fuere el caso.

ARTÍCULO IX.

Los Arbitros por cualquier causa que juzguen suficiente podrán prorrogar uno ú otro de los plazos fijados en los Artículos VI, VII y VIII, lowance of thirty days additional.

ARTICLE X.

The decision of the tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the agent of Great Britain for his Government, and the other copy shall be delivered to the agent of the United States of Venezuela for his Government.

ARTICLE XI.

The arbitrators shall keep an accurate record of their proceedings and may appoint and employ the necessary officers to assist them.

ARTICLE XII.

Each Government shall pay its own agent and provide for the proper remuneration of the counsel employed by it and of the arbitrators appointed by it or in its behalf, concediendo treinta días adi-

ARTÍCULO X.

Si fuere posible, el Tribunal dará su decisión dentro de tres meses contados desde que termine la argumentación por ambos lados.

La decisión se dará por escríto, llevará fecha y se firmará, porlos Arbitros que asientan á ella.

La decisión se extendera por duplicado; de ella se entregará un ejemplar al Agente de los Estados Unidos de Venezuela para su Gobierno, y el otro se entregará al Agente de la Gran Bretaña para su Gobierno.

ARTÍCULO XI.

Los Arbitros llevarán un registro exacto de sus procedimientos y podrán elegir y emplear las personas que necesiten para su avuda.

ARTÍCULO XII.

Cada Gobierno pagará á su propio Agente y proveerá la remuneración conveniente para el Abogado que emplee y para los Arbitros elegidos por él ó en su nombre, y cosand for the expense of preparing and submitting its case to the tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments, in equal moieties.

ARTICLE XIII.

The high contracting parties engage to consider the result of the proceedings of the tribunal of arbitration as a full, perfect, and final settlement of all the questions referred to the arbitrators.

ARTICLE XIV.

The present treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of Venezuela, by and with the approval of the Congress thereof; and the ratifications shall be exchanged in London or in Washington within six months from the date hereof.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

teará los gastos de la preparación y sometimiento de su causa al Tribunal. Los dos Gobiernos satisfarán por partes iguales todos los demás gastos relativos al arbitramento.

ARTÍCULO XIII.

Las altas Partes Contratantes se obligan á considerar el resultado de los procedimientos del Tribunal de Arbitramento como arreglo pleno, perfecto y definitivo de todas las cuestiones sometidas á los árbitros.

ARTÍCULO XIV.

El presente Tratado será debidamente ratificado por el Presidente de los Estados Unidos de Venezuela con la aprobación del Congreso de ellos, y por Su Majestad Británica: y las ratificaciones se canjearán en Washington ó en Londres dentro de los seis meses contados desde la fecha del presente tratado.

En fé de lo cual los respectivos Plenipotenciarios hemos firmado este tratado y le hemos puesto nuestros sellos. Done in duplicate at Washington, the second day of February, one thousand eight hundred and ninety-seven.

JULIAN PAUNCEFOTE. [SEAL.]

JOSÉ ANDRADE. [SEAL.]

Hecho por duplicado en Washington, a dos de Febrero, de mil ochocientos noventa y siete.

JOSÉ ANDRADE. [SELLO.] JULIAN PAUNCEFOTE. SELLO.]

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CASE OF VENEZUELA.

BRIEF

CONCERNING THE QUESTION OF BOUNDARY BETWEEN VENEZUELA AND BRITISH GUIANA.

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SÜBMITTED TO THE TRIBUNAL OF ARBITRATORS CONSTITUTED IN CONFORMITY WITH

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